(1) Supreme Court, U.S.
FILED
No. 031700 JUN 23 2004

IN THE

Supreme Court of the United Sates

Robert E. Hinton

Petitioner(s)

v.

United States of America, et al.

Respondent(s)

On Petition For Writ OF Certiorari
To The (U.S. District Court of Michigan No.02-73966 Enter on October 3, 2002 and
U.S. Court of Appeals for the Sixth Circuit No.03-2007 Enter on August 14, 2003)

BRIEF FOR THE PETITIONER

Robert E. Hinton
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Burton, MI. 48519
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QUESTION (S) BEFORE THIS COURT

1) Are Constitutional rights and International human rights law suppose to protect the people from all forms of abuse of power(s) at which conspiracy to cover up corrupted Government agencies; States agencies; Union officials; and Corporation behavior using discriminatory practice's in employment, health care, skill trade training (education), and job related injuries (workers compensation is race base) still be permitted?

2) The District Court magistrate judge orders are clearly erroneous, at which both lower courts totally disregarded **legal documentary evidence proving** plaintiff irreparable physical injuries and **proof** that the federal courts are sending court decisions/orders to the wrong address/ wrong party (**violating of FRCP rule 5; 38(A); 39(A); FRE rule 103 (A)(2)**) which deprive citizen(s) of their liberty and legal rights (**without due process**) are these judges allowed to rule," **contrary to law**"?

3) Can U.S. Companies be held accountable for irreparable physical injuries to workers who's medical records have been alter to prevent proper determination on health benefits (**violating of FRCP rule 44; 18 U.S.C. § 1035**) and are these rules of law enforceable against these U.S. Companies who run operation overseas in other countries that don't support human rights and workers rights or are they held accountable only under International law?

4) The final question before this Supreme Court is, can Congress be allowed to continue to reject, delay, its legal obligation to make needed changes in the Civil Rights Investigation Procedures (**violating 2 USC § 285b(2)**) and not be held accountable for improvements to cut out the loopholes in the law that permit's continuous violation against the U.S. code of law base on civil rights and International human rights standards?

COURT'S OPINION

Petitioner-Appellant case (**docket No: 02-73966**) enters the U.S. Eastern District Court of Michigan (Detroit) on October 3, 2002 before **EDMUNDS, and Pepe (Magistrate Judge)** based on, "Corruption (**RICO**) and Miscarriage of Justice **(Due Process of law)** violations and denial of **Jury Trial demand**. Magistrate Judge Pepe wrote in his report and recommendation that all defendants are to be cleared of any legal obligation and plaintiff case should be resolved under **rule 12(b)(6)** motion to dismiss. Judge Edmunds agreed and processed to dismiss without prejudice (**see Appendix C Report and Recommendation),** which was an injustice (**see U.S v. Bagley (1985)**. Petitioner- Appellant case (**docket No:03-2007**) enter the U.S. Court of Appeals on August 14, 2003 before **NELSON, GIBBONS, and SUTTON, Circuit Judges.** Ruling in favor of all defendant(s). The panel of judges stated in their reasoning that the magistrate judge entered a report and recommendation on June 30, 2003 and that the Petitioner-Appellant filing on July 18, 2003 from that report and recommendation, concluded this court lacks jurisdiction over this appeal. **No final or appealable order was entered at the time the notice of appeal was filed.** Accordingly, it is ordered that this appeal is dismissed on September 18, 2003 (**see Appendix J Denied Order**). Petitioner-Appellant requested that the panel of judges review and reconsider their decision but that request was dismissed on November 21, 2003 (**see Appendix K Denied Order**). Now petitioner comes before this Supreme Court, requesting justice against injustice.

PARTIES TO THIS PROCEEDING

PETITIONER/APPELLEANT
ROBERT E. HINTON

V.

RESPONED/APPELLEE'S
REPERSENTATIVE FOR OFFICE OF
U.S. ATTORNEY'S GENERAL
SHEILA H. GASKELL

OFFICE OF THE ATTORNEY GENERAL
OF MICHIGAN
ANGELITA ESPINO

GENERAL MOTORS CORPORATION
LAW FIRM OF
HARDY, LEWIS, and PAGE
DAVID M. DAVIS

MICHIGAN DEPARTMENT OF ATTORNEY GENERAL
WORKERS' COMPENSATION FUNDS DIVISION
MORRISON R. ZACK

ASSOCIATE GENERAL COUNSEL
INTERNATIONAL UNION, UAW
THOMAS C. CAREY

TABLE OF CONTENTS

Page

QUESTION(S) BEFORE COURT.....i

COURT'S OPINION.....ii

PARTIES TO THIS PROCEEDING.....iii

TABLE OF CONTENTS.....iv

TABLE OF AUTHORITIES.....vii

JURISDICTION.....x

CONSTITUTIONAL and STATUTORY PROVISIONS.....xi

STATEMENT OF THE CASE.....1

A. District Court 4,5,6,7

B. Plaintiff Did State A Claim For Relief.....7,8

C. Court of Appeals (Misunderstood Filing).....8,9

REASONS FOR GRANTING THE WRIT.....10

CONCLUSION.....11

INDEX TO APPENDICES

APPENDIX A PETITIONER- APPELLANT CASE ENTERS THE U. S. DISTRICT COURT EASTERN DISTRICT OF MICHIGAN (**No:02-60194** and **02-73966**)

APPENDIX B CIVIL DOCKET REPORT FLOW CHART FOR 2:02cv73966 (**WITH JURY DEMAND**)

APPENDIX C REPORT AND RECOMMENDATION APIRL 23, 2003

APPENDIX D ANSWER BY ROBERT HINTON TO REPORT AND RECOMMENDATION (FIRST SET) MAY 5, 2003

APPENDIX E DISTRICT COURT ACCEPT DECISION OF MAY 20, 2003

APPENDIX F ANSWER BY ROBERT HINTON TO REPORT AND RECOMMENDATION (SECOND SET) JUNE 13 , 2003

APPENDIX G DISTRICT COURT SECOND ACCPETS ORDERS AUGUST 12, 2003

APPENDIX H DISTRICT COURT JUDGEMENT ON AUGUST 12, 2003

APPENDIX I PLEADING TO COURT OF APPEALS ON SEPTEMBER 12, 2003

APPENDIX J COURT APPEAL FIRST DENIED ORDER ON SEPTEMBER 18, 2003

APPENDIX K COURT APPEAL SECOND DENIED ORDER ON NOVEMBER 21, 2003

APPENDIX L APPEAL COURT DOCKET REPORT FLOW CHART

APPENDIX M AFFIDAVIT OF JOHN MILLER AND JAMES BRANDON

APPENDIX N STATE OF MICHIGAN DEPARTMENT OF CIVIL RIGHTS REPORT AND RECOMMENDATIONS

APPENDIX O PETITIONER RECEIVED MR. RONNIE BRADFIELD FROM COURT

APPENDIX P DOCTOR'S LISTING

TABLE OF AUTHORITIES

Cases:

Page

Barbour v. Connolly, 113 U.S. 27,31.....2

Simon v. Craft, 182 U.S. 427.....2,3,5

Bush v. Gore.....5

Bank of China, New York Branch v. NBM LLC,

No. 02-9267 (2d Cir. February 17, 2004).....3,4,11

Yick Wo v. Hopkins, 118 U.S. 356.....3

Marbury v. Madison 5 U.S. (2 Cranch) 137, 174, 176,

(1803)..... 3

United States v. Salerno (U.S. 1987).....3

Laramie Irrigation District v. Baker 612 N.W.2d 897,

2000 Neb. Lexis 158 (2000).....6

First Nationwide Bank v. Gelt Funding Corp.

27 F.3d 763, 769 (2d Cir. 1994).....3,6

Ferdik v. Bonzelet

963 F.2d 1258, 1260 (9th Cir. 1992).....7

Dobrota v. INS No. 01-71266 (9th Cir. Dec. 6, 2002).....7

State v. Knittel 308 N.W.2d 379 (N.D. 1981).....7

Chalmers v. Toyota Motor Sales

USA, Inc., 326 Ark. 895, 935 S.W.2d 258 (1996).....11

Lewis v. Herrmann, 755 F. Supp. 1137, 1148 (N.D. Ill.

1991).....11

Askanase v. Fatjo, 130 F.3d 657, 666 (5th Cir. 1997).....11

Leonard v. Eskew 731, S.W.2d 124,128 (Tex. App. Austin 1987,

writ ref'd .r.e.).....11

Greenhaw v. Lubbock Country Beverage Ass'n

721 F.2d 1019 (5th Cir. 1983).....11

Other case reference pertaining to this case:

United States v. Bagley 473 U.S. 667; 105 S.CT 3375 (1985)

Conley v. Gibson, 355 U.S. 41, 45-46 (1957)

Naylor v. Harkins, 99 A.2d 849, 855 (1953)

Monsen v. Consol. Dressed Beef Co., Inc., 579 F.2d 793, 799

(1978)

Mugler v. Kansas, 123 U.S. 623 at 661

Hurtado v. California

Mathews v. Eldridge, 424 U.S. 319, 333 (1976)

Davis v. Scherer, 468 U.S. 183, 200 (1984)

Gilbert v. Homar, 520 U.S. 924, 930 (1997)

Cafeteria & Rest. Workers Union v. McElroy, 367 U.S. 886, 895 (1961)

Zinermon v. Burch, 494 U.S. 113, 125 (1990)

Cleveland Bd. Of Ed. v. Loudermill, 470 U.S. 532, 545-547 (1985)

Fed. Deposit Ins. Corp. v. Mallen, 486 U.S. 230, 240 (1988)

Brady v. Maryland, 373 U.S. 83 (1963)

Board of Regents v. Roth, 408 U.S. 564,92 S.Ct. 2701 (1972),

Lochner v. New York, 198 U.S. 45, 25 S.Ct. 539, 49 L.Ed 937 (1905)

McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973),

Edwards v. Johnston County Health Dept., 885 F.2d 1215, 1219 (4th Cir. 1989)

Daniels v. Williams, 474 U.S. 327, 331

Collins v. Harker Heights, 503 U.S. 115, 129

Mitchum v. Foster, 407 U.S. 225, 238-239 (1972)

JURISDICTION

This court has jurisdiction pursuant to violation in rule of law 42 U.S.C. § § 1981,1983; 28 U.S.C. § § 1443,1746; 2 U.S.C. § § 241, 285b(1); and Constitutional violations (**failure to process court orders to correct party**) fifth and fourteenth amendment (**due process clause violation**).

Petitioner never received court orders and was physically injured on the job in one event and attacked on the job in another event by white co-workers, at which the company, state of Michigan, and union violated petitioner rights and falsifying medical records to cover-up injuries and event (attack inside the place of work). This court discretion can make the correction that are needed to protect the people rights under the statute and rule of **law 28 USC 2072(B).**

CONSTITUTIONAL and STATUTORY PROVISIONS

Fifth Amendment- deprived of life, liberty and due process of law

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation

Seventh Amendment - Civil Trials

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Eleventh Amendment- tort Actions Against State Officials

Tindal v. Wesley, the Court adopted the rule of United States v. Lee, a tort suit against federal officials, to permit a tort action against state officials to recover real property held by them and claimed by the State and to obtain damages for the period of withholding. The immunity of a State from suit has long been held not to extend to actions against state officials for damages arising out of willful and negligent disregard of state laws. The reach of the rule is evident in Scheuer v. Rhodes in which the Court held that plaintiffs were not barred by the Eleventh Amendment or other immunity doctrines from suing the governor and other officials of a State alleging that they deprived plaintiffs of federal rights under color of state law and seeking damages, when it was clear that plaintiffs were seeking to impose individual and personal liability on the officials. There was no "executive immunity" from suit, the Court held; rather, the immunity of state officials is qualified and varies according to the scope of discretion and responsibilities of the particular office and the circumstances existing at the time the challenged action was take.

Fourteenth Amendment - Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATUTORY PROVISIONS

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 13--CIVIL RIGHTS

Sec. 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 13--CIVIL RIGHTS

Sec. 242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by

reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 13--CIVIL RIGHTS

Sec. 245. Federally protected activities

(a)(1) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

(2) Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;

(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States;
(C) applying for or enjoying employment, or any perquisite thereof, by any agency of the United States;
(D) serving, or attending upon any court in connection with possible service, as a grand or petit juror in any court of the United States;
(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; or
(2) any person because of his race, color, religion or national origin and because he is or has been--
(A) enrolling in or attending any public school or public college;
(B) participating in or enjoying any benefit, service, privilege, program, facility or activity provided or administered by any State or subdivision thereof;
(C) applying for or enjoying employment, or any perquisite thereof, by any private employer or any agency of any State or
subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall, or employment agency;
(D) serving, or attending upon any court of any State in connection with possible service, as a grand or petit juror;
(E) traveling in or using any facility of interstate commerce, or using any vehicle, terminal, or facility of any common carrier by motor, rail, water, or air;
(F) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests, or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public and (i) which is located within the premises of any of the aforesaid

establishments or within the premises of which is physically located any of the aforesaid establishments, and (ii) which holds itself out as serving patrons of such establishments; or (3) during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or (4) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

A) participating, without discrimination on account of race color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F); or (B) affording another person or class of persons opportunity or protection to so participate; or (5) any citizen because he is or has been, or in order to intimidate such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 13--CIVIL RIGHTS

Sec. 246. Deprivation of relief benefits

Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, shall be fined under this title, or imprisoned not more than one year, or both.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 47--FRAUD AND FALSE STATEMENTS

Sec. 1027. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974

Whoever, in any document required by title I of the Employee Retirement Income Security Act of 1974 (as amended from time to time) to be published, or kept as part of the records of any employee welfare benefit plan or employee pension benefit plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is required by such title or is necessary to verify, explain, clarify or check for accuracy and completeness any report required by such title to be published or any information required by such title to be certified.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 47--FRAUD AND FALSE STATEMENTS

Sec. 1035. False statements relating to health care matters

(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully--

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

(2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 73--OBSTRUCTION OF JUSTICE

Sec. 1505. Obstruction of proceedings before departments, agencies, and committees.

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative

demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 73--OBSTRUCTION OF JUSTICE

Sec. 1506. Theft or alteration of record or process; false bail

Whoever feloniously steals, takes away, alters, falsifies, or otherwise avoids any record, writ, process, or other proceeding, in any court of the United States, whereby any judgment is reversed, made void, or does not take effect; or Whoever acknowledges, or procures to be acknowledged in any such court, any recognizance, bail, or judgment, in the name of any other person not privy or consenting to the same.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE
CHAPTER 79--PERJURY

Sec. 1621. Perjury generally

Whoever--

1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states

or subscribes any material matter which he does not believe to be true; or

2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

TITLE 2 – THE CONGRESS
CHAPTER 8 – FEDERAL CORRUPT PRACTICES
Sect. 249 – Relating to Pledges and Promises by Congress

TITLE 2—THE CONGRESS
CHAPTER 9--OFFICE OF LAW REVISION COUNSEL
Sect. 285(A)-- - Purpose and policy

The principal purpose of the Office shall be to develop and keep current an official and positive codification of the laws of the United States. The Office shall maintain impartiality as to issues of legislative policy to be determined by the House.

Sect. 285(B) -- Functions

The functions of the Office shall be as follows:

(1)

To prepare, and submit to the Committee on the Judiciary one title at a time, a complete compilation, restatement, and revision of the general and permanent laws of the United States which conforms to the understood policy, intent, and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections both of substance and of form, separately stated, with a view to the enactment of each title as positive law.

(2)

To examine periodically all of the public laws enacted by the Congress and submit to the Committee on the Judiciary recommendations for the repeal of obsolete, superfluous, and superseded provisions contained therein.

STATEMENT OF THE CASE

Petitioner/Appellant comes before this Supreme Court to defend his human rights and civil rights of the citizens/workers of America base on the principles and application of the law using, United States Federal Code, Rules of Evidence, Rules of Civil Procedure, Code of Federal Regulations, Federal Labor Rules and Statues, and the International human Rights Law. Petitioner/Appellant attempted to seek protection under the, **"Whistleblowers Protection Program"**, by sending a notice of violation(s) on liberties, and due process principle to the U.S. Attorney General John Ashcroft, U.S. Senate Committee on the Judiciary, and the U.S. House of Representatives. Petitioner sent notice(s) by register mail on, March 1, 2002, June 19, 2002, July 1, 2002, July 30, 2002, and August 6, 2002. **"NO ONE RETURNED A RESPONES TO PETITIONER REQUEST FOR PROTECTION, AND NON-COMPLIANCE TO THE UNITED STATES CODE(S) OF LAW AND CONSTITUTIONAL RIGHTS".** Their inactivity and practice to dismiss," **For Want of Justice**", cases are unlawful and has mislead, deceived and damaged people lives from a lack of enforcement of the law in their ineffective investigation procedures. **It is their obligation and duty to make correction in the law if it is ineffective and not consistent against violators who use or make loopholes in the law (violation of 2 U.S.C. § 249; 2 U.S.C. § 285B)**. When the matter has to do with racial issues, and black people rights, official(s) and judge(s) become complacent, and allowing most case(s) to go unpunished and unpublished. These discriminatory practice(s) are still continuous in this nation from the days of slavery to this new millennium. In employment, skill trade training (education), financial institutions (black's pay higher interest rate on cars, homes, and credit card), and injustice (police brutality, racial profiling, and a lack of accountability in enforcement of the law). This is not a new learned behavior to not enforce the law; it is old and traditional and must be removed. Due to this lack of interest (civil rights) and duty, these racial practice has had a gross effect on Petitioner /Appellant case, life, and very existence.

The U.S. government, state(s), and corporation(s) do not have the right to take, steal, deprive, nor violate American citizens/workers from obtaining justice from work related injuries and racial intolerance in the workplace by denial of constitutional protected rights **(see Barbour v. Connolly, 113 U.S. 27, 31; 18 USC § 1035)**. Due to these official(s) who hold power of authority, position, and a duty to enforce the law, are doing the general public a disservice by not complying to the laws of due process, and civil rights law, by undermining it's full constitutional protection **(see Simon v. Craft, 182 U.S. 427)**. They are running interference for companies, (mine is against General Motors and the UAW). What they are doing is, **"a form of legal Racketeering"**, by using the justice system to protect themselves from legal action. The government and state can seek protection under the immunity clause, but a corporation and union can't unless it is protected by both agencies. If these agencies give a half-hearted effort with poor investigative procedures, **(violating 2 U.S.C. §§ 249, 285B)** then a company is free to run business as usual and violation(s) are define as unfounded **(see Appendix N State of Michigan Report and Recommendation)**. To take this to the heart of the matter, the U.S. government body wants to take away the people right to bring a case like Petitioner before this Supreme Court, by taking away the right of this Supreme Court to hear cases were the government, state agencies are violating the rights of the people and lower courts ruling, they call this action, **"relieving the court case load"**. By passing a new amendment called, **"Constitution Restoration Act of 2004", their ability to undermine our protected rights, as we know it today would be accomplished.** A citizen filing a claim against a company for violation(s) against the U.S. code of law and constitutional law would never happen. But as it is today, this Petitioner have a choice to enter unlawful act(s) into the court of law, at which Petitioner/Appellant proceed to file his complaint on September 13, 2002 in the United States District Court (Eastern District of Michigan) under the judgeship of Nancy G. Edmunds and magistrate judge Steven D. Pepe. Petitioner/Appellant brought his cause of action against all Respondent(s), United States of

America et al., for **Corruption (RICO) and Miscarriage of Justice**, depriving the people of their liberties and civil rights by concealing mistakes made by the U.S. Court(s), **Petitioner received another individual court orders/records** which is in violation of due process (**see Appendix O**), and defrauding American citizens of their International human rights and Constitutional rights protected under the 5th, 7th and 14th Amendment (**see Yick Wo v. Hopkins, 118 U.S. 356; Marbury vs. Madison 5 US (2 Cranch) 137, 174, 176, (1803); United States v. Salerno (U.S. 1987); Simon v. Craft, 182 U.S. 427**). These Respondent(s) action have shown a total disrespect toward plaintiff rights, a total disregard for the rule of law, reckless thoughtfulness towards civil rights, outrageous misconduct and abuse of power. Numerous violations against the U.S. codes of law, Labor, statue and International human rights were made in order to cover up the corruption of their evil-minded action. General Motors, UAW, the State of Michigan, and law firm of Hardy, Lewis, and Page **concealed injuries report at which petitioner suffer physical injuries to his head, back, neck and shoulder while working in a hostile work environment,** and committing (**RICO**) fraudulent concealment for eleven years from the U.S. Court. From September 1, 1992 until this present day they were in joint unison as an enterprise in denying injuries to petitioner and law officials (**18 U.S.C. §§ 1962, 1503, §§ 1952, 1546**). They have a legal obligation to acknowledge injuries, and attacks suffered on the job at the hands of Caucasian co-workers (**see Williams v. Polgar, 391 Mich 6, 215 NW2d 149 (1974); Clark v. dalman, 379 Mich 251, 150 NW2d 755 (1967); BANK OF CHINA, NEW YORK BRANCH v. NBM LLC, No. 02-9267 (2dCir.February 17, 2004).** They choose to hide, deny, and lie to avoid the truth by committing perjury **(violation of 18 U.S.C. § 1623(A)(B)(C)(E))** before the court and causing petitioner continued mental aguish (**18 U.S.C. § 2340 (1)(2)(A)** and physical injuries suffered, therefore equal protection and due process is non-existence in this case. The two key players (supervisor James Brandon and John Miller)
held back this information of both incidents in their Affidavit, at which they both said they read and understood petitioner complaint (**see Appendix L**).

Allowing a pattern of Racketeering and fraudulent concealment to run continuously by falsifying medical record(s) has caused many other citizen(s) to lose their workers compensation health care and income benefit(s). **Violation of 18 U.S.C. § 1035; § 1506; § 1027; § 1003; § 371; 29 U.S.C. § 1003 (A)(3); 42 U.S.C. § 3795; (see BANK OF CHINA, NEW YORK BRANCH v. NBM LLC, No. 02-9267 (2dCir.February 17, 2004).** Plaintiff has lost hundred's of thousand's of dollars due to this practice of depriving victim(s) of their rights and economic lost. Both General Motors and the UAW were in **violation of law 42 U.S.C. § 2000e-2 (1)(2)(b)(d)(L)(i); 42 U.S.C. § 9610(a)(b); 18 U.S.C. § § 1035, 1513.**

District Court

On September 13, 2003 Petitioner filed lawsuit (**No:02-73966**) against the United States of America et al., based on cause of action for violation of due process, fraudulent concealment under pattern of racketeering (**RICO**) with the demand **for a TRIAL BY JURY.** Petitioner never agree or gave consent to allow only the judge to decide this case without a jury, due to the presents of corruption (**withholding justice and obstruction of justice**). Petitioner case was enter to go before Judge Marianne O. Battani, but was transferred back to Judge Nancy G. Edmunds, who ruled on this case before (**No: 95-72479**) at which petitioner was unable to prove court final decision notice was never received by petitioner, causing his case to be dismissed and violated the due process contaminating its out come, which should have voided its judgment (**see Appendix A**). Plaintiff pursued this case up to this Supreme Court back in 2000 (**No: 00-10859**), at which it was denied consideration to be heard. This grievous injustice devastated not only petitioner life, but all working people(s) in allowing corruption, abuse of power and racism to remain dormant. By the grace of Almighty God, justification came my way**. This U.S. Supreme Court made the same violation as the District Court did back in 1996, likewise they were mailing court decision(s) to the wrong party and/or the wrong address violating due process and**

depriving the people of their legal right to receive notice and to be heard in the court of law before a jury. This time petitioner had the proof to support these fact findings (**see Simon v. Craft, 182 U.S. 427; Bush v. Gore (2000)**) Correction are needed to stop this form of abuse of power and preventing Corporation(s) from using the court of law as a shield to avoid responsibility and accountability for breaking the law they willfully committed against citizens/workers, and violating the U. S. code of law and the laws of the International communities human rights agreement. These violations continue to this present moment to affect innocent working people lives. For these reasons, petitioner case is back before this court seeking justice and preventing these abuses from continuing. On this matter magistrate Judge Pepe was assigned to assist Judge Edmunds in reviewing this case. Judge Pepe wrote a report (**REPORT and RECOMMENDATION see Appendix C**) on April 23, 2002 that petitioners' claims are dismissed with respect to all Respondent(s) except the UAW. On this same day Judge Pepe order petitioner to, "**SHOW CASUE WHY PLAINTIFF CLAIMS AGAINST UAW SHOULD NOT BE DISMISSED FOR FAILURE TO STATE A CLAIM" (see Appendix D)**. Plaintiff disagreed with the judge findings to dismiss all Respondent(s), who violated the law. The judge error in his assessment because he never addressed the issue of the court sending court orders to the wrong party/and wrong address (**see Appendix O**), judge Pepe rejected the admissibility of documentary evidence, the witnesses, and DEMEND OF TRIAL (**BY JURY**). He overlooked the facts that this case is base upon genuine issues of material facts like, job related injuries that was caused by a Caucasian worker, which is in violation of OHSA statute (**reporting medical injuries**) and Federal law (**18 U.S.C. § 1035**) in concealed (cover up), attack on the job by another Caucasian worker, which is also in violation of OHSA statute (**reporting work place violence**) and Federal law (**protection of rights**) against acts that was concealed (cover up), while working in a hostile (racist) environment, fraudulent concealment of medical documents **under pattern of RICO.** The fact that General Motors and the UAW were intertwined with the merits as an enterprise, because

they both condone this inhuman behavior, and the UAW did not provide petitioner with fair representation, nor attempt to stop the racist practices management was allowed to use by the UAW behavior of silence. (**see Laramie Irrigation District v. Baker, 612 N.W.2d 897, 2000 Neb. Lexis 158 (2000); First Nationwide Bank v. Gelt Funding Corp., 27 F.3d 763, 769 (2d Cir. 1994)**. The union rep. would always say, "MANAGEMENT HAS THE RIGHT OF JOB ASSIGNMENT". This was/is the power (tool) uses to deprive and mentally abuse workers/black workers. These judges (Pepe and Edmunds) totally disregard for due process violation meant nothing in this decision. Their action speaks for itself, they hold no value towards the U.S. Constitution. Judge Pepe and Judge Edmunds dismissed plaintiff claim on May 20, 2003 (**see Appendix E**). Plaintiff did not receive this court decision until May 28, 2003. Plaintiff then filed a motion to strike against the May 20th order to dismiss all other Respondent(s) on June 17, 2003. On the same date Plaintiff replied to judges order, **"SHOW CAUSE WHY PLAINTIFF'S CLAIMS AGAINST UAW SHOULD NOT BE DISMISSED FOR FAILURE TO STATE A CLAIM" (see Appendix F)**. Judge Pepe failure to acknowledge, petitioner motion to amend his complaint on February 6 2003, at which a, 'claim for relief", was stated as order. On June 19th Judge Edmunds strikes down petitioner requested motion to strike down May 20th decision to dismiss all other Respondent(s), but court order for May 20th was upheld. On June 30, 2003 Magistrate Judge Pepe, "REPORT and RECOMMENDATION", order petitioner claims against UAW should be dismissed. On July 18th petitioner enter Court of Appeals to beat the deadline on appealing the first order (for May 20th) to dismiss all other(s) defendants. The last order by Judge Edmunds to dismiss the UAW was order on August 12th 2003 (**see Appendix J**). This petition should have never been dismissed because they did not fulfill the letter of the law completely (**see Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992)** and I quote: **Accept all well-pleaded allegations as true and construe them in the light most favorable to petitioner.** If this statement is true, then why didn't they make acknowledgement about injuries suffered on the job that

went unreported, the attack on the job by Caucasian co-worker, and Mr. Ronnie Bradfield documents that were mailed to plaintiff/ petitioner home by mistake. How can they state that there is no factual support against due process violation, when another person court orders are in petitioner procession (**see Appendix O**)? The lack of proper service of court orders (failure to give notice) is a denial of due process and a violation of law **(see Dobrota v. N.W.2d 379 (N.D. 1981)**; This action by these judges are a deliberate act to destroy this case, they never acknowledge court mistake of serving notice to wrong party and their lack of justice consume the lives of innocent working people throughout this nation and the rest of the world who are getting hurt on the job with no accountability from their employers (companies) and no recourse for justice. The working class/people have the right to be free of corruption by government, state, and corporations and union that fails to comply too the letter of the law of the Constitution or the fundamental law of this nation,'

Plaintiff State a Claim For Relief As Amend On 2/6/2003

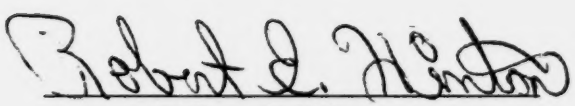
Plaintiff is seeking acknowledgement from judge that due process were violated and to go before the **ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS** to receive an apology for the oversight for the last eight years by the court of law and the need to consider improvements. Plaintiff is seeking reason, solution and an apology from all Respondent(s) as to why no action (**accountability**) was taking on their part. Plaintiff is seeking acknowledgement from judge and all Respondents that the civil rights procedures need to be improved (**updated**), due to the very high rate of continued abuse and violations of these constitutional protected rights. Plaintiff is seeking a trial by a Grand Jury/public jury in behalf of the public interest/and the plaintiff and to make recommendation to the state of Michigan to make corrections in its workmen's compensation. The Grand jury/public jury should decide the cost to government and state officials for their part of inactivity towards corruption (**doing nothing to bring about**

justice). Plaintiff is demanding injunctive relief (**G.M $3,000,000, Law Firm $1,000,000, UAW $500,000**), and compensatory (**G.M. $10,000,000, Law Firm $8,000,000, UAW $1,000,000**) and punitive damages (**G.M. $700,000,000, Law Firm $400,000,000, UAW $5,000,000**); for the cost is great for unlawful acts due to what these conspirators intentionally done to plaintiff in the twenty-five years of his service to the company and violating the law. Plaintiff endured human rights abuses, thievery and implementation of plaintiff ideals by General Motors and their team of lawyers, at which physical and emotional harm to plaintiff and his family lives, violating plaintiff hopes and dreams as a skill tradesman in his pursue of the American dream (towards happiness). Plaintiff has every right to make these demands upon intentional acts of violence and violations **(see Appendix F) Answer by Robert Hinton to Report and Recommendation**).

COURT OF APPEALS

On July 18th 2003 Plaintiff filed complaint against District Court on their May 20th decision to dismiss all other Respondent(s), **"DENIED THE RIGHT TO HAVE A TRIAL BY JURY and COURT VOILATION OF DUE PROCESS"**. Before, Honorable Justice Nelson, Gibbons and Sutton, Circuit Judges. They stated in detail that a review of the documents before the court indicates that the magistrate judge entered a report and recommendation on June 30th. The appellant appealed on July 18th from the report and recommendation. This court lacks jurisdiction over this appeal. **"No final or appealable order was entered at the time the notice of appeal was filed" (see Appendix H).** The court error in their discretion in part to the petitioner filing of this appeal base on the June 19th deny order to strike, petitioner last attempt to strike down the District Court order of May 20th 2003. The Court of Appeals judges felt appeal was base on June 30th report and recommendation, it was not, it was base on May 20th Decision. This court dismissed petitioner argument on September 18th, 2003 (**see Appendix I**).

Petitioner appealed their decision and it was also dismissed on November 21, 2003 (**see Appendix K**). Both courts fail to determine that a genuine issue of material fact existed in this case and their discretion conflicts with the rules of justice and Rule of Evidence 103(A)(2) and 104(A). The existence of fraudulent concealment under RICO, concealment of medical injury report, concealment of attack on the job. All Respondent(s) are co-conspirator to General Motors and the UAW working as an enterprise to conceal worker injuries and supporting a hostile environment that promoted racist, remakes and discriminatory practices **(see BANK OF CHINA, NEW YORK BRANCH v. NBM LLC, No. 02-9267 (2d cir. February 17, 2004); (20 CFR702.211 (A)(B)(4); 702.201(A); 702.204; 702.419-420; 702.201(A)(1)(B);** violated due process of union member rights **(20 CFR702.131 (C)(2)), RICO (18 USC §§ 1962,1967),** against petitioner with reasonable difference of opinion, a trial court may resolve facts of issues as a matter of law. **See Chalmers v. Toyota Motor Sales, USA, Inc., 326 Ark. 895, 935 S.W.2d 258 (1996); Lewis v. Herrmann, 755 F. Supp. 1137, 1148 (N.D. Ill. 1991); Askanase v. Fatjo, 130 F.3d 657, 666 (5th Cir. 1997); Leonard v. Eskew, 731 S.W.2d 124,128 (Tex.App. Austin 1987, writ ref'd n.r.e.); Greenhaw v. Lubbock County Beverage Ass'n. 721 F.2d 1019 (5th Cir. 1983).**



Robert E. Hinton

Dated: June 20, 2004

Appendix B is to show step by step of the events that happen inside the District Court process.
Appendix L is to show step by step of the events that happen inside the Appeals Court process.

REASONS FOR GRANTING THE WRIT

Petitioner deserves to be heard, due to the extreme opposition that petitioner had to over come. No representation from union officials, lawyers, government agency, or states agency which were suppose to help safeguard our individual rights, instead of opposing those rights. It's not because petitioner choose to have no one to represent him, it's because no one wanted to standup and protect those individual rights. If it's not a group or a class action lawsuit no one with the power, authority, and an understanding of the law will defend your rights. Not on an appeal case, it is the kiss of death so they feel. Petitioner refuses to be a victim that falls's between the cracks of injustice. Petitioner as an individual have the constitutional right, civil rights and human rights to defend himself in the court of law, when our rights are being deprive and violated by the very one's who swear before Almighty God and the people to uphold the law, to serve and protect our individual rights ,then turn around to support violation in these laws is unacceptable. What can you tell that innocent person who are attack on the job, what can you tell that worker who got injured on the job and the company, nor the union will compensate him, and what can you tell that individual who's due process principle were violated and taking away from him, I'm sorry but there is nothing we can do. This case is about accountability of officials who duty is to protect the rights of its citizens/workers, not to violate them. Yes, I deserve to be the voice of the victims, to help correct the injustice that is destroying the lives of working people who are physically injured on the job. **JUSTICE FOR ALL PEOPLE'S MUST BE A GOAL, NOT JUST HERE IN AMERICA, BUT ALSO THE INTERNATIONAL COMMUNITIES.**

CONCLUSION

I pray for your understanding in this matter, that if workers /citizens are injured on the job and transported to a local medical center, that injured person (he/she) should receive their documentation of the injury report. But as it is world wide, companies can deny injuries no matter what, which leads to corruption and a problem of abuse of power against workers/citizens who should receive compensation without being fired, or made to wait months to years before acknowledging the injury. The Court and Government should standardize these programs to prevent problems of racial disparities in claims. Race will forever be a problem until the law is really enforced. If nothing is in place, then this behavior will continue. These present civil rights laws are only good as the people who enforce it. I have seen the ineffectiveness of the investigation procedure of this present civil rights protection act and it does not prevent the people of authority (supervisors, law enforcement, teachers..etc.) from abusing black people or any people for that matter. The investigation procedures is a hit and miss system that works against black people. It's there, and ugly as ever.

This is why, white people don't understand why black people are arguable with their views, because whites do not have a system they must break for fairness, and black people do. Record reviewing (**medical and educational**) should always be on the top of the list when an investigation is taken place that is the norm in law, accept civil right law. That is why reform is needed in civil rights to close the loopholes in the law. These present civil rights laws are watered down, so that violators of the law can keep on doing what they will to do. My case alone will help bring about a big light on this problem, because this kind of injustice is hatred at a high level. This corruption of power over the people must come to its end...NOW!!!!! Standardization for injured workers must have its fulfillment in law, just like any revisions in law (**2 U.S.C. § 285B**).

APPENDIX SECTION

A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHYERN DIVISION

Robert E. Hinton — CASE NUMBER 02-FP-60194
Plaintiff — Honorable Marianne O. Battani
v. — Magistrate Judge Thomas A. Carlson

United States Of America, ET AL.,
Defendant(s). — 02-73966

_____/

Order Regarding Reassignment Of Companion Case

This case appears to be a companion case to 95-72479. Pursuant to LR 83.11, the clerk is directed to reassign this case to the docket of the Honorable Nancy G. Edmunds.

Marianne O. Battani
United States District Judge
Nancy G. Edmunds
United States District Judge

Pursuant to this order, case assignment credit will be given to the appropriate Judicial Officers.
Please indicate the appropriate case type: **CIVIL.**

If the District Judge assigned to the companion case is located at another place of holding court, the new case number is **02-73966.**

Date: Oct-3-2002

Judith Christla
Deputy Cleck

B

U.S. District Court
Eastern District of Michigan (Detroit)
CIVIL DOCKET
FOR CASE #: 2:02-cv-73966-NGE-SDP

Hinton v. USA, et al.
Assigned to: Hon. Nancy G Edmunds Date Filed: 10/22/02
Jury Demand: Plaintiff
Magistrate: Magistrate Judge Steven D. Pepe
Demand: $0 Nature of Suit: 890 Other
Lead Docket: None Statutory Actions
Related Cases: None Jurisdiction: U.S. Government
Case in other court: None Defendant

FILING DATE	DOCKET TEXT
09/13/2002	(Entered: 09/16/02)
09/13/2002	APPLICATION by plaintiff Robert Hinton to waive prepayment of the Filing fee (LD) (Entered: 09/19/02)
10/03/2002	ORDER reassigning and transferring case from Judge Marianne O. Battani in Ann Arbor to Judge Nacny G. Edmunds in Detroit- Reason: Companion (LB)(Entered: 10/18/02)
10/22/2002	ORDER by Judge Nancy G. Edmunds granting application to waive prepayment of the filing fee by Robert Hinton (1-1), directing service without prepayment of cost and authorizing US Marshal to collect costs after service Is made (EOD Date 10/23/02) (dh) (Entered: 10/23/02)

C

10/22/2002	COMPLAINT with attachments, jury demand- Receipt # fp (dh) (Entered:10/23/02)
11/01/2002	MOTION by defendants' Hardy Lewis Page, GM Corp to dismiss with Brief, exhibits A & B, and proof of Service. (PP) (Entered: 11/04/02)
11/13/2002	APPEARANCE for defendant UAW OF Thomas C. Carey, Daniel W. Sherrick (DT) (Entered: 11/14/2002)
11/13/2002	ANSWER by defendant UAW to complaint (4-1) with proof of service (DT) (Entered:11/14/02)
11/13/2002	AFFIRMATIVE defenses by defendant UAW (DT) (Entered: 11/14/02)
11/20/2002	SUMMONS returned executed by US Marshals on 10/28/02- answer Due 12/27/02 for Admin Office US Ct (Ih) (Entered: 11/21/02)
11/20/2002	ORDER by Judge Nacny G. Edmunds referring all pretrial proceedings to Magistrate Judge Steven D. Pepe, With proof of service (EOD Date 11/21/02) (Ih) (Entered: 11/21/02)
11/26/2002	ORDER for submission and determination for motion without oral hearing by Magistrate Judge Steven D. Pepe, setting deadline for response to Motion to dismiss by GM Corp, Hardy Lewis Page (5-1) for 12/13/02 (EOD Date 12/03/02) (EW) (Entered: 12/03/02)

D

12/12/2002	MOTION by Robert Hinton oral hearing with brief and attachments (kd) (Entered: 12/18/02)
12/19/02	MOTION by MI Dept Civ Rights to dismiss with brief, exhibits 1-6 and proof of service (kb) (Entered: 12/23/02)
12/20/2002	MOTION by defendant MI Dept Lbr for summary judgment, to dismiss with proof of service (PP) (Entered: 12/24/02)
12/23/2002	MOTION by Admin Office US Ct, US Atty Gen, USA to dismiss with brief, Proof of service (dh) (Entered: 12/31/02)
12/30/2002	ORDER by Magistrate Judge Steven D. Pepe setting deadline for response to Motion for summary judgment and Dismissal by MI Dept Lbr (13-1) (13-2) For 1/21/03 (EOD Date 1/03/03) (DT) (Entered: 1/03/03)
01/13/2003	ORDER by Magistrate Judge Steven D. Pepe, setting deadline for response to Motion to dismiss by USA, US Atty Gen Admin Office US Ct (14-1) for 1/21/03 With proof of service (EOD Date 1/15/03) (dh) (Entered: 1/15/03)
01/21/2003	REQUEST by plaintiff Robert hinton re: brief and determination of motion for oral hearing against Michigan Department of Consumer and Industry Service with attachment (dh) (Entered: 1/24/03)
01/21/03	REQUEST by plaintiff Robert hinton re: brief and determination of motion for oral hearing against Michigan Department of Civil Rights with attachments (dh) (Entered: 1/24/03)

FILING DATE **DOCKET TEXT**

E

b01/21/03	REQUEST by plaintiff Robert hinton re: brief and determination of motion for oral hearing against defendants USA, Administrative Office of the U.S. Courts And U.S. Attry Gen with attachments (dh) (Entered: 1/24/03)
01/27/2003	REPLY brief by defendant to response to dismiss by USA, US Atty Gen, Admin Office US Ct (14-1) with proof of service (dh) Modified on 1/29/03 (Entered: 1/28/03)
02/04/2003	WAIVER of service returned unsigned as to defendants summons has expired (kd) (Entered:2/07/03)
02/06/03	AMENDED request by plaintiff re: brief and determination of motion for oral hearing against defendants USA, Admin Office od the US Ct, US Atty Gen (PP) (Entered: 2/10/03)
02/06/03	AMENDED request by plaintiff re: brief and determination of motion for oral hearing against Michigan Dept of Civil Rights (PP) (Entered: 2/10/03)
02/06/03	AMENDED request by plaintiff re: brief and determination of motion for oral hearing against Michigan Dept of Cons & Industry Service (PP) (Entered: 2/10/03)
02/06/03	AMENDED request by plaintiff re: brief and determination of motion for oral hearing against Gen Motors, Hardy, Lewis & Page and the UAW with Attachments (PP) (Entered: 2/13/03)
02/06/03	PROOF of service by plaintiff of (25-1), (23-1), (22-1) (PP) (Entered: 2/10/03)
FILING DATE	**DOCKET TEXT**

F

03/05/2003	ANSWER by defendant MI Dept Lbr request re: brief and determination of motion for oral hearing against Michigan Dept of Cons & Industry Service (24-1) With proof of service (lh) (Entered: 3/06/03)
04/23/2003	REPORT and RECOMMENDATION by Magistrate Judge Steven D. Pepe that Plaintiff's claims be dismissed with respect To all defendants except UAW (4-1) with Proof of service (EOD Date 4/29/03) (dh) (Entered: 4/29/03)
04/23/2003	ORDER by Magistrate Judge Steven D. Pepe, for plaintiff Robert Hinton to show Cause why plaintiff's claims against UAW Should not be dismissed for failure to state Claim with proof of service (EOD Date 4/29/03) (dh) (Entered: 4/29/03)
05/05/2003	ANSWER by Robert Hinton to report & recommendation (28-1) (kb) (Entered: 5/07/2003)
05/20/2003	ORDER by Judge Nancy G. Edmunds accepting report & recommendation (28-1) granting motion to dismiss by Admin Office US Ct, US Atty Gen, USA (14-1), Granting motion for summary judgment by MI Dept Lbr (13-1), granting motion to Dismiss by MI Dept Lbr (13-2), granting Motion to dismiss by MI Dept Civ Rights (12-1), All federal claim asserted against these defendant are dismissed without prejudice any remaining state law claims asserted against these defendants are dismissed without prejudice.(EOD Date 5/21/03) (RH) (Entered:5/21/03)
FILING DATE	**DOCKET TEXT**

G

05/30/2003	RESOLUTION of motion to dismiss by Hardy Lewis & Page, GM Corp (5-1) – Disposition: granted- date: 5/20/03- Judge Nancy G. Edmunds (ch) (Entered: 5/30/03)
05/05/2003	RESOLUTION of motion oral hearing by Robert Hinton (11-1) (ch) (Entered: 5/30/03)
06/17/2003	(STRICKEN per order 6/19/03) OBJECTIONS by plaintiff Robert Hinton Report & recommendation (28-1) (PP) (Entered: 6/19/03)
06/17/2003	ANSWER by plaintiff to order for plaintiff Robert Hinton to show cause why plaintiff Claims against UAW should not be Dismissed for failure to state a claim (29-1) Order (29-2) (PP) (Entered: 6/19/03)
06/17/2003	MOTION by plaintiff to strike order (31-1) (PP) (Entered: 6/20/203)
06/19/2003	ORDER by Judge Nancy G. Edmunds denying motion to strike order (31-1) by Robert Hinton (34-1) (EOD Date 6/20/03) With proof of service. (PP) (Entered: 6/20/03)
06/19/2003	ORDER by Judge Nancy G. Edmunds striking objection by Robert Hinton (32-1) (EOD Date 6/20/03) with proof of service. (PP) (Entered: 6/20/03)
06/26/2003	REPORT and RECOMMENDATION by Magistrate Judge Steven D. Pepe that Plaintiff's claims against UAW be Dismissed (EOD Date:6/30/03) (ew) (Entered: 6/30/03)
07/18/2003	APPEAL by plaintiff Robert Hinton of report & recommendation (37-1) to USCA fee: Paid- Receipt # 400473 (Ib) (Entered: 07/28/2003)

H

07/28/2003	PROOF of service of notice of appeal (38-1) to USCA, Robert Hinton and counsel of record (lb) (Entered: 7/28/03)
07/28/2003	CERTIFIED copy of appeal notice by Robert Hinton (38-1) and docket Transmitted to USCA (lb) (Entered: 7/28/03)
08/12/2003	ORDER by Judge Nancy G. Edmunds accepting report and recommendation (37-1) (EOD Date 8/13/03) (ew) (Entered: 8/13/03)
08/12/2003	JUDGMENT entered by Judge Nancy G. Edmunds for defendant (EOD Date: 8/13/03) (ew) (Entered: 8/13/03)
08/26/2003	ACKNOWLEDMENT from USCA of receipt of appeal notice of appeal & docket (40-1) – appeal case # 03-2007 (dh) (Entered: 8/27/03)
09/12/2003	ADDENDUM by plaintiff Robert Hinton to complaint (4-1) (RH)(Entered: 9/17/03)
09/26/2003	CERTIFIED copy of order from USCA dismissing appeal- appeal case # 03-2007 (dh) (Entered: 9/29/03)
FILING DATE	DOCKET TEXT

C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT HINTON,

Plaintiff, Case No. 02-73966

Vs. HONORABLE NANCY G. EDMUNDS

HONORABLE STEVEN D. PEPE

UNITED STATES OF AMERICA, UNITED STATES ATTORNEY GENERAL, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, MICHIGAN DEPARTMENT OF CIVIL RIGHTS, MICHIGAN DEPARTMENT OF LABOR, GENERAL MOTORS CORPORATION UNITED AUTO WORKERS, LAW OFFICES OF HARDY, LEWIS & PAGE, P.C.

Defendants,
_____/

REPORT AND RECOMMENDATION

Robert Hinton ("Plaintiff"), proceeding *pro se*, brought this action against several defendants, alleging racial discrimination against certain defendants and " no accountability" on the part of several others. The case has been referred for all pretrial proceedings pursuant to 28 U.S.C. §§ 636(b)(1)(A), (B). For the following reasons, IT IS RECOMMENDED that Plaintiff claims be DISMISSED with respect to all defendants except United Auto Workers "(UAW)". [1]

[1] As discussed later in this Report and Recommendation, an order to show cause issued this same date requires Plaintiff to demonstrate why his claims against UAW should not be dismissed.

D

I. FACTUAL AND PROCEDURAL BACKGROUND

In 1995, Plaintiff brought a case alleging disparate treatment and racial discrimination against General Motors ("GM").[2] GM was granted summary judgment on these claims and final judgment was entered on December 2, 1996. *See* Defendant General Motors' and Hardy, Lewis' Motion to Dismiss, Ex. B.[3] Plaintiff filed a notice of appeal on October 17, 2000; the Sixth Circuit dismissed Plaintiff's untimely appeal for lack of jurisdiction.[4] *Id.* Plaintiff filed his complaint in the current case on June 12, 2002. The text of the complaint is short and is quite unclear as to the basic facts giving rise to this lawsuit. Plaintiff attaches many exhibits; however, these exhibits give little, if any support to Plaintiff's claims. Essentially, Plaintiff alleges that he has been subjected to a hostile work environment and disparate treatment by GM beginning in 1992. Plaintiff's complaint, however, provides only general statements of discrimination. He asserts that GM prevented him from transferring to an apprentice electrician position by claiming he was not qualified. Compl. At ¶ 9. He also claims that the company doctor, Emanuel Joseph

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[2] *Hinton v. General Motors Corp.*, No. 95-72479 (E. D. Mich. 1996) (Edmunds. J.).

[3] This exhibit is a copy of Judge Edmunds' Memorandum Opinion and Order in Hinton dated November 26, 1996, granting summary judgment to GM on Plaintiff's Title VII claim and dismissing his state claims for lack of subject matter jurisdiction.

[4] Plaintiff also asserts that in 1998 he filed another lawsuit based on racial discrimination. A search of this Court's docket, however, did not reveal that such a case had been filed nor does Plaintiff provide any evidence that such a case was, in fact, filed in this or any other court. Additionally GM, whom plaintiff claims was a defendant in the 1998 lawsuit, does not discuss such a suit, but does discuss the 1995 suit.

M.D., overlooked certain medical records, "intentional or not, " *id.* at ¶ 11, and that by failing to report incidents in which Plaintiff alleges that he was assaulted by a white co-worker, both GM and United Auto Workers ("UAW") engaged in a conspiracy to cover-up injuries Plaintiff suffered on the job that resulted from the alleged attacks. *Id.* at ¶ 10. Plaintiff further claims that " all parties associated with protecting G.M[.] are denying [his] illness (Sarcoidosis)... and injuries, "*id.* at ¶ 13, and that Dr. Joseph has failed to properly adopt a medical restriction against direct contact with smoke. *Id.* at ¶ 15. Regarding the United States of America, United States Attorney General, and the Administrative Office of the United States Courts ("Federal Defendants") Plaintiff asserts that he never received notification of dismissal of his 1995 suit. Sometime in 1997, Plaintiff went to Judge Edmunds' chambers to inquire about his case; he alleges this was when he was first informed that his case had been dismissed. He claims that he did not receive any documents regarding the dismissal of his case until 2000 when he made a request for them under the Freedom of Information Act. Comp. At ¶ 8. He also alleges that the Attorney General's office failed to provide due process or a proper investigation of his claims. *Id.* at ¶¶ 6-7, 18. Similarly, Plaintiff alleges that the Michigan Department of Civil Rights ("MDCR") failed to conduct a proper investigation. Id. at ¶ 16. He asserts that the investigator did not discuss " the attack by a white worker" against Plaintiff and that his medical and educational records should have been reviewed as part of the investigation. Plaintiff's claims against the Michigan Department of Consumer and Industry Services ("MDCIS"), formerly the Michigan Department of labor, are not clear. He states that " Workmen's compensation has shown total disregard and no respect, " and that he filed documents that were " valid and should have been file [sic] as such, but all this denying, is to cover-up the race issue that is involved in this case." *Id.* at ¶ 19.

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Finally, Plaintiff claims that either GM or Hardy, Lewis & Page, P.C., the law firm that represented GM in the 1995 lawsuit, "willfully stole and used [Plaintiff's] ideals [sic]... to help its operation." *Id.* at ¶ 20. Plaintiff asserts that GM began using a survey to identify and disparities in training opportunities between white workers and minority workers, which Plaintiff suggested in the 1995 lawsuit, and that one of Hardy, Lewis' attorneys, in a memo, quoted an "off color" statement attributed to one of Plaintiff's supervisors which Plaintiff had previously related to the attorney. **Plaintiff states that both Hardy, Lewis, and GM should be liable for stealing and using his ideas to make important changes to benefit the company.**

All defendants except for UAW have filed motions to dismiss under Rules 12 (b)(1) and 12 (b)(6) or for summary judgment. Plaintiff has filed responses (all of which are titled "Brief and Determination of Motion for Oral Hearing") as well as **amended responses** with the same titles.

II ANALYSIS

A. Standards of Review for Dismissal and Summary Judgment

1) Rule 12 (b)(1)

Under Federal Rule of Civil Procedure 12 (b)(1), a plaintiff carries the burden of proving federal subject matter jurisdiction. *Moir v. Greater Cleveland Reg'l Transit Auth.*, 895 F.2d 266, 269 (6th Cir. 1990). The plaintiff must also set forth the grounds on which jurisdiction is based. Fed. R. Civ. P. 8(a)(1). When determining whether jurisdiction exists on the face of the pleadings, the question "is whether the federal claim alleged is so patently without merit as to justify the district court's dismissal for want of jurisdiction." *Espinosa v. Norfolk and Western Ry. Co.*, 750 F. Supp. 819, 822 (E.D.Mich. 1990). The Court must determine "whether the challenged pleadings set forth allegations sufficient to show the court that it has subject matter jurisdiction over the matter. " *Id.* at 823.

The facts should be construed in the light most favorable to the non-moving party. *Id.*

2. **Rule 12(b)(6)**

In deciding a motion to dismiss pursuant to Fed. R. Civ. P. 12 (b)(6), a court must accept all well-pleaded allegations as true and construe them in the light most favorable to plaintiff. *Zinermon v. Burch*, 494 U.S. 113, 117 (1990); 5A Charles A. Wright & Arthur R. miller, *Federal Practice and Procedure* § 1357, at 304 (2d ed. 1990). *See also Jenkins v. McKeithen*, 395 U.S. 411, 421-22 (1969); *Westlake v. Lucas*, 537 F.2d 857 (6th Cir. 1976). **A complaint will not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief**. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). Moreover, *pro se* complaints are to be construed liberally. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Ordinarily, a court may decide a motion to dismiss only on the basis of the pleadings. *See Song v. City of Elyria, Ohio*, 985 F.2d 840, 842 (6th Cir. 1993). A court may, however, treat a motion to dismiss as one for summary judgment if " matters outside the pleadings are presented to and not excluded by the court." Fed. R. Civ. P. 12(b).

3. **Summary Judgment**

Under Fed. R. Civ. P. 56, summary judgment is to be entered if the moving party demonstrates there is no genuine issue as to any material fact. The Supreme Court has interpreted this to mean that summary should be entered if the evidence is such that a reasonable jury could find only for the moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 144, 157 (1970). The moving party has "the burden of showing the absence of a genuine issue as to any material fact." *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 157 (1970). *See also Lenz v. Erdmann Corp.*, 773 F.2d 62 (6th Cir. 1985). In resolving a summary judgment, the Court must view the evidence in the light most favorable to the non-moving party. *See Duchon v. Cajon Co.*, 791 F.2d 43, 46 (6th Cir. 1986); *Bouldis v. United States Suzuki Motor Corp.*, 711 F.2d 1319 (6th Cir. 1983).

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But, as the Supreme Court wrote in Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986):

[T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact, " since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial. The moving party is entitled to a judgment as a matter of law" because the nonmoving party has failed to make a sufficient showing on an essential element of his/her case with respect to which he/she has the burden of proof.

Moreover, when a motion for summary judgment is filed, the adverse party may not merely rely "upon the mere allegations or denials of the adverse party's pleading, but... by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e).

B. **Factual Analysis**

1. **The Federal Defendants**

The Federal Defendants assert that Plaintiff's complaint fails to state a valid claim and therefore, dismissal pursuant to Rule 12(b)(6) is appropriate. Alternatively, the Federal Defendants argue that because Plaintiff has not provided a jurisdictional basis for his claim and because sovereign immunity bars this suit, dismissal under Rule 12(b)(1) would also be appropriate. Plaintiff's allegation against the federal defendants include his claim that he was not provided with a copy of the order dismissing his 1995 case and that the U.S. Attorney General's office did not perform a sufficient investigation of his claims when he brought

GM's alleged wrongdoing to its attention. Although Plaintiff obviously feels strongly that the Federal Defendants have acted to deprive him of recourse against GM. Plaintiff's complaint does not state any jurisdictional basis for his claims against these defendants. It is unclear on what grounds he seeks relief and this Court is not aware of any law on which the Plaintiff could rely that would fall within the subject matter jurisdiction of this Court or provide relief with regards to these defendants in any court. Plaintiff's claims against the Federal Defendants should be dismissed under Rule 12(b)(1) for lack of subject matter jurisdiction and/or for failure to state a claim.

2. **Michigan Department of Civil Rights**

Plaintiff alleges very generally that MDCR failed to perform a proper investigation of his complaints. He claims that the investigator neither reviewed his medical or educational records, which he claims were necessary to determine that he was qualified for a position from which he claims he was terminated and replaced by a white employee, nor mentioned a white co-worker's attack against Plaintiff.[5] MDCR argues that Plaintiff's claim should be dismissed under Rule 12(b)(1) because it is entitled to Eleventh Amendment immunity. The Sixth Circuit has recently determined that Eleventh Amendment immunity should not be treated like subject matter jurisdiction, which may be raised at any time in the proceedings, but rather should be treated like personal jurisdiction. *Ku v. Tenn*, 322 F.3d 431, 2003 U.S. App. LEXIS 4236, *3 (6th Cir. March 12, 2003).

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[5] The MDCR investigation revealed that Plaintiff was never actually given the job he claims to have been terminated from. Additionally, Plaintiff's complaint to the MDCR never mentioned anything about an attack by a white co-worker, although the investigation report does indicate that Plaintiff mentioned the incident informally. See Compl., Ex. K; MDCR Mot. to Dismiss, Ex. 1.

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If personal jurisdiction is not raised as an affirmative defense in the first responsive pleading, it is waived. Fed. R. Civ. P. 12(h)(1). *See, e. g., Reynolds v. Int'l Amateur Athletic Fed'n*, 23 F.23 F.3d 1110, 1120 (6th Cir. 1994). Relying on *Wisconsin Dep't of Corrections v. Schacht*, 524 U.S. 381, 118 S. Ct. 2047, 141 L. Ed. 2d 364 (1998) (distinguishing between Eleventh Amendment immunity and original jurisdiction), and *Lapides v. Bd. of the Univ. Sys. Of Georgia*, 535 U.S. 613, 122 S. Ct. 1640, 152 L. Ed. 2d 806 (2002) (adopting in part Justice Kennedy's concurrence in *Schacht* and preventing a state defendant sued in state court on both state and federal claims from raising Eleventh Amendment immunity after removing the case to federal court) *Ku* held "that appearing without objection and defending on the merits in a case over which the district court otherwise has original jurisdiction is a form of voluntary invocation of the federal court's jurisdiction that is sufficient to a waive a State's defense of Eleventh Amendment immunity. " *Ku*, 332 F.3d at___, 2003 U.S. App. LEXIS at *11. Therefore, Eleventh Amendment immunity should be treated as an issue of personal jurisdiction, subjecting a case to dismissal under Rule 12(b)(2) rather than Rule 12(b)(1). Here, MDCR has raised Eleventh Amendment immunity in its motion to dismiss and therefore has properly raised this defense. There are only three situations in which the Eleventh Amendment does not prevent a citizen of a state from suing a state or state agency in federal court: 1) when a state or state agency has expressly waived Eleventh Amendment immunity, *see Port Authority Trans-Hudson Corp. v. Feeney*, 495 U.S. 299 (1990), or failed to raise the issue in its first responsive pleading, *Ku*, supra; 2) when a person is seeking prospective injunctive relief to prevent future constitutional violation, see *Ex Parte Young*, 209 U.S. 123 (1908); and 3) in situations where Congress has abrogated the state's sovereign immunity. Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996). Plaintiff is not seeking injunctive relief.[6] Nor has Congress abrogated MDCR sovereign immunity in this situation. Finally, MDCR argues that it has not consented to federal lawsuits regarding improper

investigations and Plaintiff does not allege that MDCR has done so. Because Plaintiff's claims do not fall into any of the situations in which Eleventh Amendment immunity does apply. Plaintiff's claims against MDCR should be dismissed pursuant to Rule 12(b)(2).

3. **Michigan Department of Consumer and Industry Services**

Plaintiff apparently claims that he is entitled to workers' compensation benefits and that he was denied benefits in efforts to cover-up racial discrimination. He also seeks reform of the Michigan's Workers' Disability Compensation Act ("WDCA"), MCL 418.101 *et seq*. MDCIS moves for dismissal of Plaintiff's complaint on two grounds 1) to the extent that Plaintiff seeks an award of benefits, MDCIS seeks dismissal pursuant to Rule 12(b)(1), 2) with regard to Plaintiff's claim for reform of WDCA, MDCIS seeks dismissal under Rule 12(b)(6) for failure to state a claim.[7] To the extent that MDCIS arguments address Plaintiff's claims, it is correct. Michigan law requires that all issue regarding benefits under the WDCA be determined by the Bureau of Workers' Disability Compensation. M.C.L. § 418.841 (1) states "[a]ny dispute or controversy concerning compensation or other benefits shall be submitted to the bureau and all questions arising under this act shall be determined by the bureau or a worker's compensation magistrate, as applicable.

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[6]In his responses to MDCR motion to dismiss, Plaintiff asserts that he is seeking injunctive relief. It is not clear, however, that there are any future constitutional violations he seeks to remedy. Moreover, Plaintiff amended response states that he is " demanding injunctive relief ($100,000)," indicating that he really only seeks monetary damages.

[7] MDCIS has not raised Eleventh Amendment immunity as an affirmative defense. Thus, following Ku, supra, this defense has been waived.

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This court has recently interpreted § 418.841 (1) to preclude federal courts from exercising subject matter jurisdiction over complaints regarding the handling of a workers' compensation claim. *Williams v. Michigan*, 2002 U.S. Dist. LEXIS 9531, *17-*18 (E.D. Mich. April 29, 2002). See also *Maglaughlin v. Liberty Mut. Ins. Co.*, 267 N.W.2d 160, 160 (Mich. Ct. App. 1978) questions of compensation, compensation procedure, and the remedy for failure to follow that procedure are statutorily established and are to be determined by the bureau, rather than the circuit court."). Additionally, this Court has no power to reform the WDCA. Compl. at ¶ 5. The Michigan Constitution vests all legislative power in the Michigan legislature. MICH. CONST., art. 4, § 1. Absent a finding that a law is unconstitutional, a court may not alter a legislative enactment. See Nat'l Life & Accident Ins. Co. v. U.S., 524 F.2d 559, 560 ("The Courts...do not have the power to repeal or amend the enactments of the legislature even though they may disagree with the result..."). This Court cannot simply reform the statue to Plaintiff's liking, even if it were apparent what that task would involve; this Court does not have subject matter jurisdiction with respect to these issues. Yet, Plaintiff apparently believes MDCIS discriminated against him based on his race. In his complaint, he suggests that other African-American workers at GM have been denied workers' compensation benefits and the " race is an issue". Compl.¶ 14. Nevertheless, Plaintiff has not articulated any facts demonstrating wrongdoing on the part of MDCIS. His complaints appear to be directed more at GM and UAW. "General Motors and the UAW are responsible [sic] and liable for the cover up of the incident (to hide the injuries... caused by a white co-worker...) Race is an issue, which have [sic] caused them to cover up this whole matter and making [sic] me suffer for their stupidity." Amended Brief and Determination of Motion for Oral Hearing Against MDCIS at 2. It appears from this amended response that he only believes that MDCIS ignored his "request for acknowledgment and documentation as evident [sic] of his injuries."

Therefore, Plaintiff has not stated a sufficient claim of racial discrimination against MDCIS. Even if Plaintiff did state, in the broadest of terms, such a claim, he has provided absolutely no evidence that any acts by MDCIS were racially motivated or that MDCIS was attempting to cover up the discrimination of GM and the UAW to resist MDCIS alternate request for summary judgment. Because Plaintiff has failed to state any valid claim against MDCIS his action against MDCIS should be dismissed under Rules 12(b)(1) and 12 (b)(6).

4. **Hardy, Lewis & Page, P.C.**

Plaintiff's only claim against Hardy, Lewis & Page is that its attorney's may have been responsible for stealing certain ideas he proposed to improve training of African-American employees.[8] Hardy, Lewis & Page seeks dismissal for failure to state a claim pursuant to Rule 12(b)(6). Plaintiff cites no law, and this Court is unaware if any such law, that would support his claim. This claim should be dismissed pursuant to Rule 12 (b)(6).

5. **General Motors**

Certain of Plaintiff's claims are barred by *res judicata*. That doctrine bars re-litigation of issues if 1) a court of competent jurisdiction has reached a final decision on the merits, 2) the second action involves the same parties or those in privity with the parties in the first action, 3) the later case raises issues that were litigated or could have been litigated in the first action, and 4) there is identity of causes of action. *Sanders Confectionery Prod v. Heller Fin. Inc.*, 973 F.2d 474, 480 (6th Cir.1992).

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[8]He also finds fault with the fact that one of the attorneys cited a quote by one of Plaintiff's supervisors, which Plaintiff had related to the attorney. Even if stealing his ideals were actionable, this is not.

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An identity of cause of action exists if there is an "identity of the facts creating the right of action and of evidence necessary to sustain each action because Plaintiff admitted he never applied for, nor express interest in such a position. To his complaint, Plaintiff attaches four applications for transfer or promotion- only one of which is date subsequent to his prior lawsuit. Compl., Ex. D. "*Westwood Chem. Co. v. Kulick*, 656 F.2d 1224, 1227 (6th Cir. 1981). *See also Begala v. PNC Bank, Ohio, Nat'l Assn.*, 214 F.3d 776, 780 (6th Cir. 2000). In the 1995 case, Plaintiff alleged disparate treatment because he was never promoted to a supervisory position due to the lack of training he received allegedly on account of his race. GM was granted summary on that issue, the requests dated March 15, 1995; June 14, 1994, and July 18, 1992, all could have been raised in the prior suit and the same evidence and facts would have been relevant to his claim regarding transfer or promotion in the current suit. In that respect, these claims are barred by *res judicata*. His request dated September 23, 1998, however, could not have been raised in the earlier suit and is not affected by *res judicata*. The only two remaining federal claims of any significance, therefore, involve the one alleged instance of disparate treatment and the asserted violations of the Racketeer Influenced and Corrupt Organization Act ("RICO"), 18 U.S.C. § 1961 *et seq.*, based on the alleged conspiracy to cover-up the two "attacks" by white co-workers and the failure to report those "attacks".[9] While pro se complaints are to be construed liberally, *Haines v. Kerner*, 404 U.S. 519, 520 (1972), conclusory, unsupported allegations of constitutional deprivation do not state a claim.[10] Similarly, conclusory assertions do not suffice for a Title VII claim. In order to state a valid claim of disparate treatment without presenting direct evidence of intentional discrimination, a plaintiff may prove a prima facie case by establishing:

(i)that he belongs to a racial minority; (ii) that he applied and was qualified for a job which the employer was seeking applicants; (iii) that, despite his qualifications, he was rejected; and (iv) that after his rejection, the position

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remained open and the employer continued to seek applicants from persons of complainant's qualifications.

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[9] The RICO claims are not barred by *res judicata*. With respect to the alleged attack addressed in the prior suit, the facts and evidence necessary to prove RICO violations would be different than that necessary to establish disparate treatment, and therefore, there is no identity of the cause of action. Although his complaint, does not discuss the details of the second attack, Exhibit G, attached to Plaintiff's, complaint, and the amended response to GM'S motion to dismiss, taken together, suggest that Plaintiff alleges that in 1992, Gary Osborne, the son of the ex-president of UAW, flipped a switch on a machine that resulted in injury to Plaintiff. There is no second attack, Exhibit G, attached to Plaintiff's complaint, and the amended response to GM's motion to dismiss, taken together, suggest that plaintift alleges that in 1992, Gary Osborne, the son of the ex-president of UAW, flipped a switch on a mac ine that resulted in injury to Plaintiff. *See* Compl., Ex. G. at 4, 10. at 10. Plaintiff raised no facts or evidence regarding this injury or the alleged conspiracy and cover-up in his prior lawsuit; therefore, there is not an identity of causes of action for this claim either.

[10] *See. E.g., Ana Leon T. v. Federal Reserve Bank*, 823 F.2d 928, 930 (6th Cir.), cert. Denied, 484 U.S. 945 (1987) ("[T]he allegations must be more than mere conclusions, or they will not be sufficient to state a civil rights claim."); *Chapman v. City of Detroit*, 808 F.2d 459, 465 (6th Cir. 1986) ("It is not enough for a complaint... to contain mere conclusory allegations of unconstitutional conduct by persons acting under color of state law. Some factual basis for such claims must be set forth in the pleadings."); *Smith v. Rose*, 760 F.2d 102, 106 (6th Cir. 1985) (conclusory, unsupported allegations insufficient to state a claim); *Keniston v. Roberts*, 717 F.2d 1295, 1300 (9th Cir. 1983) (dismissal of complaint appropriate if allegations of constitutional deprivation are "mere conclusions");

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Ross v. Meagan, 638 F.2d 646, 650 (3d Cir. 1981) ("[T]his court has consistently demanded that a civil rights complaint contain a modicum of factual specificity, identifying the particular conduct of defendants that is alleged to have harmed the plaintiffs."); Place v. Shepherd, 446 F.2d 1239, 1244 (6th Cir. 1971) ("A pleading will not be sufficient to state a cause of action under the Civil Rights Act if its allegations are but conclusions."); Borenstein v. City of Philadelphia, 595 F. Supp. 853, 856 (E. D. Pa.1984) ("[C]ivil rights complaints must be pleaded with specificity and may not merely make conclousory allegations of constitutional deprivations or the existence of municipal."); Egan v. Concini, 585 F. Supp. 801, 803 (M.D. Pa. 1984) (factual specificity required in order to enable court to evaluate substance of claim).

McDonnell Douglas Corp. v. Green, 411b U.S. 792, 802 (1972). Although Plaintiff does belong to a racial minority and has attached educational/vocational credentials and applications for transfer, he has not alleged that GM was either seeking applicants or continued to seek applicants after his "rejection" or that his qualifications meet those necessary to perform the job, which he applied. Nor has he alleged that the position was filled by a non-minority employee. Plaintiff's claim is conclusory and does not state any facts that would allow him to succeed under this theory. Accordingly, the claim should be dismissed under Rule 12(b)(6).[11] Similarly, RICO and civil conspiracy claims cannot be alleged in general terms that fail to meet the pleading requirement that facts sufficient to state a claim be identified in a complaint.[12] Plaintiff asserts the existence of a RICO conspiracy and that those involved in the conspiracy committed RICO violations by failing to report the alleged attacks to OHSA. Yet, Plaintiff has only stated this claim of conspiracy in the most conclusory manner and has failed to provide and specific allegations regarding this claim. Moreover, it does not appear that Plaintiff has actually stated a substantive claim under RICO as he has not asserted the necessary predicate acts required by statute, *see* 18 U.S.C. § 1961(5), which failure precludes consideration of a claim of conspiracy under that statue.

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Craigshead, supra. As with Plaintiff's disparate treatment claim, his RICO claims should be dismissed under Rule 12(b)(6).[13]

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[11] Plaintiff also apparently claims that he was denied equal protection and was subject to a hostile work environment, although it is unclear if he is raising a hostile work environment claim in this suit. Similar to his disparate treatment claim, however, these assertions are conclusory; Plaintiff alleges no facts that would indicate he is entitled to relief on either claim.

[12] *See Cole v. First Bank Nat'l Assoc.*, 1991 U.S. App. LEXIS 18878, *2-*4 (6th Cir. August 7, 1991) (unpublished) (complaint pled in "wholly conclusory terms" failed to meet requirement that allegedly fraudulent predicate acts under RICO be pled with specificity); *Craigshead v. E.F. Hutton & Co.*, 899 F.2d 485, 495 (6th Cir.1989) (holding that a plaintiff may not succeed on a conspiracy claim under RICO where the plaintiff has failed to state a cognizable substantive RICO claim and that failure to plead existence of a civil conspiracy also precludes a finding of a conspiracy under RICO); *Manax v. McNamara*, 842 F.2d 808, 811 (5th Cir. 1988) (in order to sufficiently state a RICO claim, a plaintiff must plead the existence of an enterprise-defined as "any union or group of individuals" –with " specific facts, not mere conclusory allegations..." (citations omitted)); *Gutierrez v. Lynch*, 826 F.2d 1534, 1538 (6th Cir. 1987) (conspiracy claim under § 1983 must be pled with specificity); *Jaco v. Bloechle*, 739 F.2d 239,245 (6th Cir. 1984)(same).

[13] Additionally, it appears that Plaintiff's disparate treatment and RICO claims are barred by the applicable statutes of limitation. Title VII requires that a claimant file charges with the EEOC within 180 days of the alleged violation; if that claimant first instituted proceedings with a state agency authorized to grant such relief, the filing deadline is extended to 300 days. 42 U.S.C. § 2000e-5(e)(1). After the EEOC either dismisses the charges or issues a right-to-sue letter, that claimant then has 90 days in which to file a civil action in federal court. 42 U.S.C. § 2000e-5(f)(1).

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This time limit has not been treated as a jurisdiction prerequisite, but instead as a statute of limitations. *Sharpe v. Cureton*, 319 F.3d 259, 268 (6th Cir. 2003) (citing *Zipes v. Trans World Airlines, Inc.*, 455 U.S. 385, 393-95). In this case, it appears that Plaintiff did not file any charge with the EEOC. Moreover, he clearly did not file this action within the time limit contemplated by Congress. *See Zipes, supra*. Therefore, Title VII's statute of limitations should bar Plaintiff's disparate treatment claim. Additionally civil RICO actions have a four-year statute of limitations, which begins to run when the plaintiff knew or should have known of an injury. Rotella v. Wood, 528 U.S. 549, 552-55 (2000). As with the disparate treatment claim, Plaintiff certainly knew of one incident at least as early as 1995, when he filed the previous lawsuit, and appears to have known about the other incident, which apparently occurred before the attack discussed in the 1995 suit, at least as early. Thus, Plaintiff's RICO claims appear to also be barred by the statute of limitations.

6. UAW

The only issues Plaintiff appears to raise against UAW are the same general claims of conspiracy and RICO violations in order to cover up evidence of racial discrimination. UAW has answered the complaint listing several affirmative defenses but has not filed any dispositive motions. Because courts may not dismiss a complaint **sua sponte** without giving notice of the intent to dismiss and the opportunity for the parties to respond, the claims regarding UAW are addressed in an order to show cause issued this same day.

7. State Law Claims

Any remaining claims asserted against any of the defendants appear to be based upon state law. Because Plaintiff has not stated any federal claims upon which relief could be granted, this Court should decline to exercise supplemental jurisdiction over any state law claims. 28 U.S.C. § 1367(c).

III. RECOMMENDATION

For the reasons stated above, IT IS RECOMMENDED that Plaintiff's claims against the Federal Defendants, MDCR, MDCIS, Hardy, Lewis, & Page, and GM be DISMISSED. The parties to this action may object to and seek review of this report and recommendation, but are required to file any objections within ten (10) days of service of a copy hereof, pursuant to 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections, which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this report and recommendation. Smith v. Detroit Fed'n of Teachers Local 231, 829 F., 2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge. Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such page limit is extended by the Court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

STEVEN D. PEPE
UNITED STATES MAGISTRATE JUDGE

Dated: April 23, 2003
Ann Arbor, Michigan

D

UNITED STATES DISTRICT COURT
EASTERN DISTKRICT OF MICHIGAN
SOUTHERN DIVISION

Robert Hinton,

Plaintiff,

Case No. 02-73966

Honorable Nancy G. Edmunds
Honorable Steven D. Pepe

vs.

UNITED STATES OF AMERICA,
UNITED STATES ATTORNEY GENERAL,
ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
MICHIGAN DEPARTMENT OF
CIVIL RIGHTS, MICHIGAN
DEPARTMENT OF LABOR,
GENERAL MOTORS CORPORATION,
UNITED AUTO WORKERS,
GENERAL MOTORS LAW OFFICES OF
HARDY, LEWIS & PAGE, P.C.
Defendants

RESPONSE TO COURT
REPORT and RECOMMENDATION

As Almighty God Jehovah lives, so may righteousness and truth in the court of law. That is why I have brought my complaints before this court, to seek out the truth from the lie, and getting justice against the violators of the law. From the readings of this court report and recommendation, all the defendants in this case were justify in their behavior and no laws were

violated and therefore no one should be held accountable for the neglect and violations that I stated in state, federal, constitutional and o.h.s.a statutes. This most recent lawsuit was base upon the court of law mistake/fraud of sending out (mail) court final decisions and court appeals to the wrong address and /or the wrong party, intentional or not it happen. Receiving no notification of court final decision is a violation of, "due process of law" (**Petrosian v. Frizell, 25 Mich. App. 141, 181 NW2d 10 (1970); Constitutional Fifth Amendment**). That is why I attached Mr. Ronnie Bradfield documents as evident of these events happening (**see wrong doc. B/or appendix A**). I did not obtain Mr. Bradfield's court documents illegally, they were addressed to me by the court of law. I didn't think this mistake/fraud could happen again, but it did (the court dismissed my case in 1996 due to this same mistake/fraud). But this time I have admissible evidence to these facts. **This defrauds American citizens of their constitutional right in the legal process.** I've stated in my documents that I attempt to contact, **"Attorney General John Ashcroft, U.S. House of Representative, and the U.S. House of Judiciary Committee"**, three times to report violations of the law and to be put in the," **Whistleblower Protection Program**", but I got no responses from them. That is why they are a part of this lawsuit for having, **"NO ACCOUNTABLITY"**, toward violators of the law. You're either a part of the solution or a part of the problem. These officials took an oath of office, to protect the people and their constitutional rights, yet corruption and fraud by big business have violated the people in the last three years. This recommendation stated plaintiff only wanted monetary gains, which is not true. I've stated all along that reform is needed to help prevent defrauding America people of their rights in the legal system, workmen's compensation, and employment opportunities.

There is no mentioning of this being a problem in this report, neither is the Intentional Tort that I have a legal right to claim from injuries suffered and mental abuses (**Schindler v. U.S. 661 F.2d 552; Yustick v. Eli Lilly & Co. 573 F. Supp. 1558; People v. Veenstra, 60 N.W.2d 309, 337 Mi. 427; Lefever v. American Red Cross, 310 N.W.2d 278, Mi.App.69; Stimson v. Michigan Bell Telephone Co. 258 N.W.227, 77 Mi.App.361**). **"Everyone has been over looking important details in my case"**, which has been a problem throughout my quest for justice. The protection of the people rights is what I am seeking to protect. The court attached my previous lawsuits to this case that I filed under corruption and miscarriage of justice using the law of RICO and Intentional tort. Because the union, corporation and it's legal law firm violated my rights and became an enterprise to conspiracy (**fraudulent concealment**) to hide work related injuries, steal and use ideals from my 1996 and 2000_lawsuit and other violation that have occurred. Again, this report and recommendation states my exhibit give little, if any support to my claims, at which I disagree. That is why I attached medical records from General Motors Grand Blanc Medical Department and McLaren Medical Center as evidence, which should not be over looked again (**see Injury doc. C/or appendix E**) of these events and injuries, (**Intentional Tort**). These records were concealed from me for years at which, I had no power to force General Motors and the UAW union to present these documents as evidence before the court of law. General Motors and the UAW denied these events, so as to protect their friends and/or family members from trouble, and I was assaulted upon once without a written report, not twice as you stated. The other violations were 1) working in a racist (hostile) environment at which racial slurs were used and written on walls of the men's locker room and

washrooms (Karins v. City of Atlanta City, 706 (Sup.Ct., N.J., 1998); Taylor v. Metzger 706 A. 2d 685 (Sup. CT., N.J., 1998), 2) management applied disparity in job opportunity and assignment for black workers and black managers who qualified for these opportunities, and 3) the union willingness to allowed it to continue (misrepresentation by the union). These facts would have been exposed, if MDCR did not perform a subverted investigation. They did not subpoena records (medical and educational) for reviewing so as to know what I can or can't do. My record shows that I am qualified for any electrical job opening that is why my educational records are used as evident to state these facts. Nor did they enter into the planet to view the racial writings in the men's locker room /washroom. That is why reform is needed in the way investigative procedures are done. But, MDCR did give the court of law some good insight into the truth of their (G.M and the UAW) motive to conceal unlawful act's as I stated in my claim. That is if the evidentiary rule allowing admission of prior bad acts for the purpose of showing absence of mistake is not over looked again (rule 404 (40)). For I provided the truth with these two documents and underlined these facts (**see MDCR and G.M Law Firm doc.**). 1) Mrs. Martina Hazard stated that there was no record of an employee attack/confrontation, yet G.M law firm clearly states otherwise, they acknowledge the attack did occur. The truth is I was attack on the job just as stated by the G.M lawyers and the supervisor did not follow O.H.S.A statute that states," **not reporting to O.H.S.A, is a violation of standards, that an employer must report all point-of-operation injuries and record all violent acts directly related to employment regardless of who commits the act". This is an act of (RICO) to commit conspiracy by G.M and the UAW worked as an enterprise to hide offense and injuries (Intentional tort) done against plaintiff.**

This is a criminal offense. 2) The discrimination is also highlighted here, at which the civil rights rep. (**Jimmy Pugh**), clearly states," **that supervisor often pick and choose who they want for a particular training/job and that race may be a factor. It is/was a factor just as I stated, and review of my educational background should have validated these truths. These were civil rights violation that was allowed to go uncover.** All this could have been avoid if MDCIS would have acknowledge the physical injuries, and done a complete investigation of reviewing records as fact and true, but instead they got behind General Motors to continue, to intentionally conceal and suppress records of injuries, cover up incidents, and racist logo that was never before this court. Yes, reform is really needed, but I am not seeking it thought this court of law. Plaintiff only wants acknowledgement that the law was violated and injuries suffered by plaintiff are factual. For these violations are of facts and truthfulness with no deception before this court. I am asking this honorable court to **rule under the jurisdiction of federal law,** with the **subject matter of fraud, under the law of RICO and Intentional tort.**

Robert E. Hinton

Dated: May 5, 2003

E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Robert E. Hinton,

Case No. 02-73966

Plaintiff,

Honorable Nancy G. Edmunds

v.

United States Of America, Et AL.

Defendant.

_____/

Order Accepting Magistrate Judge's Report and Recommendation

This matter comes before the court on the Magistrate Judge's April 23, 2003 Report and Recommendation. Being fully advised in the premises and having read the pleadings, including Plaintiff's objections, the court **Accepts and Adopts** the Magistrate Judge's Report and Recommendation in its entirety.

IT IS HEREBY ORDERED that motions to dismiss or for summary judgment filed by Federal Defendants and Defendants Michigan Department of Civil Rights, Michigan Department of Consumer and Industry Services, Hardy, Lewis & Page, P.C., and General Motors Corporation be **GRANTED.** All federal claims against these Defendants are DISMISSED WITHOUT PREJUDICE.

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Because Plaintiff has not stated any federal claims upon which relief could be granted, This court declines to exercise supplemental jurisdiction over any state law claims. See 28 U.S.C. § 1367 (c). The only remaining claims are those asserted against Defendant UAW, and those claims are the subject of a pending Order to Show Cause. See 4/23/03 Order to Show Cause Why Plaintiff's Against UAW Should Not be Dismissed for Failure to State a Claim.

SO ORDERED.

Nancy G. Edmunds
U.S. District Judge

Dated: May 20, 2003

Pursuant to rule 77 (d), FRCivP
Copies have been mailed to all
Attorneys for all parties on
5/20/03

DEPUTY CLERK

F

United States District Court
Eastern District of Michigan

ROBERT E. HINTON,
Plaintiff/ Petitioner,

Civil Action No. 02-CV-73966

vs.

Honorable Nancy G. Edmunds
Honorable Steven D. Pepe

UNITED STATES OF AMERICA, U.S. ATTORNEY GENERAL, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, MICHIGAN DEPARTMENT OF CIVIL RIGHTS, MICHIGAN DEPARTMENT OF LABOR, GENERAL MOTORS CORPORATION, UNITED AUTO WORKERS, GENERAL MOTORS LAW OFFICES OF HARDY, LEWIS & PAGE, P.C.
Defendant/ Respondent.

_____/

ORDER TO SHOW CAUSE WHY PLAINTIFF'S CLAIMS AGAINST UAW SHOULD NOT BE DISMISSED FOR FAILURE TO STATE A CLAIM

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This Court has jurisdiction over these action(s) pursuant to **42 U.S.C. § 1983 (THE PUBLIC HEALTH AND WELFARE) and violation of Constitutional right of Due Process of Law and Corruption "Pattern of Racketeering activity".** This brief is to confirm that the UAW (all other defendants) is guilty of inactivity (**misrepresentation of union member rights, concealing injury report, and allowing a hostile work environment**) and willfully engaging in defrauding plaintiff and the people of the state of Michigan. These violators continued to deny and cover-up violations of the law to this present day by, **"Fraudulent Concealment".** Plaintiff is filing cause of action of numerous charges, **"Pattern of Racketeering Activity, Intentional Tort (workplace injuries), 18 U.S.C. § 1959, § 241, § 242, § 1961, § 1962(d), § 1503, § 1546, § 1952; Title VII," 42 U.S.C. §§2000e to 2000e-17, § 1503, § 1964(c).** These defendants, **"have made a mockery of the court of law"**, in their ability to manipulate the law (**committing fraud and concealing their acts**) to keep plaintiff case out of the court of law (for eight years) from exposing their corruption and keeping plaintiff from receiving justice, under the codes of law and the guaranties of the United States Constitution. The court of law has the power and duty to invoke an immediate investigation (Grand Jury) into these violations of the law under the code of the United States and Constitutional law. Not doing so this court would not be serving the welfare and health of the people, which are protected constitutional rights and Universal Declaration of Human Rights against criminal acts and activity.

BACKGROUND

The perpetrators of the law, knew plaintiff was, 1) working in a hostile work environment **(racial slurs), National Railroad Passenger Corp. v. Morgan; Karins v City of Atlanta City, 706 A 2d 706 (Sup. Ct., N.J., 1998); Taylor v. Metzger 706 A. 2d 685 (Sup. Ct., N.J., 1998),** 2) attack on the job by a white co-worker (**Mark Rottwell**) who is the brother

in-law to a G.M. Manager **(Jeff Garmen)** at which, **"no report was made to cover up incident", (violation of law)** so as to protect him, at which G.M law firm made acknowledgement about this incident happening **(see doc. MDCR and Law firm Report)**, 3) Injuries caused by a white co-worker **(Gary Osborne)** who turn a switch on the press causing injuries (head, neck, right shoulder, upper and lower back and cut buttocks) who's father was the union ex-president of local 1292 UAW, **which again went unreported,** but these are the payments (in favors) the union and management does for one another family members and friends, yet these acts are a violation of law **(O.H.S.A statutes and federal code of law)**, 4) Fraudulently removing my medical records and falsifying records **(documentary materials)** hindering the proof of injuries suffered and causing a false representation **(perjury (RICO), C & W Const. Co v. Brotherhood of Carpenters and Joiners of America, Local 745, AFL-CIO, D.Hawaii 1988, 687 F. Supp. 1453)** before the court, so as to keep this case out of the court, 5) depriving plaintiff of opportunities (by overlooking) of continued electrical education and abilities as a tradesman and job transfer to Lansing, 6) no union representation to protect my rights, and provide equal protection under the law (a safe working environment). **U.S.C. Title 42, Section 1981 (A)(C); U.S.C. Title 42, Section 2000e-3 (A).** This is a case not only about corruption **(conspiracy to cover-up state, federal, constitutional law and O.H.S.A violations)** under **"the pattern of civil racketeering", (Section 1961 (5)), U.S.C. Title 42, Section 1985 (2)(3), RICO (429 U.S. 229, 230),** but also a far darker side, it is about hate, control, and abuse of power, **(to psychological enslavement to brake plaintiff spirit).** Their actions were cruel, malicious, and hateful (racist) making my life miserable. Plaintiff is still suffering from these injuries of September 2, 1992 and just had surgery **(neck)** on December 19, 2000 and **(left shoulder)** on May 14, 2002 **(see doc. Injury Not Reported). All parties should be held accountable for failure to report incidents and injuries to the court of law (fraudulent concealment of medical records).** The law firm of, "Hardy and Lewis", had the opportunity to at least advise General Motors to do the

right thing about reporting these injuries, but they chose to use other ideals and statements from my previous lawsuits that would help give the company better insight, into needed changes **becoming coconspirators (see doc. Used Ideals and Law Firm Advice)**. And the court violation of, "sending no notification", didn't make things any better by sending judgment to wrong address or wrong party which was a cause of action (**see doc. Courts Mistakes**). All defendants are guilty of deceiving the court of law, and for doing nothing (in activity) to uncover the proof of physical and mental harm (emotional) suffering and obstructing of justice becoming **coconspirators (U.S. v. Cannistraro, D.N.J. 1992, 800 F.Supp. 30)**. Under the laws of **"Pattern of RICO and Intentional Tort"**, violation of the law should be enforced. The American public are the victims of this scheme to defraud injured workers of their right to workers compensation benefits by fraud (Beauchamp v. Dow Chem. Co, 140 Mich App 699, 364 NW2D 286 (1984); 427 Mich 1, 398 NW2d 882 (1986); S.P.R.L. v. Imrex Co., 105 S.CT. 3275, 473 U.S. 479, 87 L.Ed.2d 346.

FRAUDULENT CONCEALMENT

On September 2, 1992 @ 3:45 a.m. plaintiff was injured inside the plant of General Motors of Grand Blanc and taken to Mclean Medical Center, due to coworker Gray Osborne (who is a white male) turning a switch on the press causing shuttle unit to strike plaintiff from behind, causing plaintiff to hit steel railing injuring neck, right shoulder, head, cut buttock and back area. Plaintiff thought report would be very well documented with no doubts about where, when and how injuries happen. Plaintiff was getting treatments by company doctor inside the plant (Grand Blanc), but due to increase of pain to neck, right shoulder, and back area plaintiff seek help from outside of company after ten days

under company doctor care. The company injury report was taken by management and the union safety rep. at which plaintiff was not able to obtain (**this was the first act of intentional concealment,**). Years whet by with no answers (from 1992 to 2000). Plaintiff took General Motors to court in the year of 1995 for civil rights violation (hostile work environment and depriving plaintiff of opportunities) and plaintiff mention in the lawsuit the injuries suffered in 1992, yet General Motors and their team of lawyers denied, and again this was concealed (**second act of intentional concealment**) from the court of law. In the year of 2000, again plaintiff took General Motors back to court on the bases of new found evident that was concealed form him in 1995 and violations of due process. The new evident was plaintiff company medical records (General Motors) and McLean medical center records and the due process claim stated by plaintiff that he never received notice of courts decisions because it was deliver to the wrong party or the wrong address. Yet again General Motor's team of lawyers denied charges and case was dismissed (**third act of intentional concealment**). Plaintiff enter his case up to the Supreme Court in the year of 2001, on the bases of corruption and injustice, yet again General Motors team of lawyers denied charges and the Supreme Court would not review case and it was dismissed (**fourth act of intentional concealment**). But thanks to Almighty God (Jehovah) and Jesus the highest court on gods blessing earth committed the same act as the district court of law did. This time around plaintiff received documents from the court, but they mailed plaintiff the wrong document that was not his, the right address but the wrong party (Mr. Ronnie Bradfield court orders). This justifies my claim for my lawsuit in 1995 violations of "due process and medical records" being removed and placed in unknown area to conceal records from plaintiff and the court of law, at which medical staff (Head of medical department (Helen McDonald)) told plaintiff records was stored in another area. That was why plaintiff never had his records in 1996, his injuries were written on a piece of paper. Yet in 2002 medical staff workers (Betty and Barbara) and ex-supervisor (Gray Greenway)

notice (**they are witnesses to these facts**) plaintiff medical records on injuries suffered on September of 1992 was falsified by someone. Someone/unknown marked on plaintiff records indicating that his injuries were not work related but sickness and health coverage (**this is an act of Racketeering, U.S. v. Boffa, D.C. Del.1980, 513 f. supp. 444**). Meaning management and the union safety staff did not make out the report to O.H.S.A. which is a violation of statute and that benefits (workman's compensation) plaintiff so rightfully desired was denied up to this very day (**continued violation of the law**). Only General Motors management and the UAW or the state of Michigan (Worker's Compensation Director) could have straighten this matter out, yet all denied or would not get involved in correcting these violations. The criminality of **"Fraudulent Concealment and falsifying medical records"** of job related injuries are acts of **"Pattern of Racketeering", which deprive plaintiff and workers in the state of Michigan of their liberties and rights protected under the United States code of laws and Constitution (Crowe v. Henry, C.A.5 (LA) 1997, 115 F.3d 294).**

CONSPIRACY

General Motors, their team of lawyers, the UAW and the state of Michigan (Worker's Compensation) had knowledge of injuries/illness that was affecting plaintiff from 1991 to this presented day of June 12, 2003. Their plan was to keep my case out of the court of law, no matter how many times plaintiff attempted (four) to seek justice G.M. team of lawyers were always successful in keeping it out of the court of law. General Motors company doctor and the state of Michigan workmen compensation representative **are the only one's who have access to medical records**, and make decision on work related injuries, not the union nor the injured worker. **A plan and scheme has been in place that has defraud injured workers' for decades of their benefits**

and rightful claims, to help cut cost for the state of Michigan and companies by suppressing claims, falsification of documents (notation) and label changed as not work related (violation of 18 U.S.C. § 1961). Due to plaintiff lawsuit (in 1996) being dismiss, plaintiff returned back to the court of law filing another lawsuit (in 2000) base on new found evident and stated these facts of corrupt activity (**fraud under RICO and intentional tort**) was taking place and how management and union safety rep. were not giving injured worker's copies of injury report at which was not a rule of law at that time nor a statute. But plaintiff stated in his lawsuit that these changes are needed to help stop corruption, and abusive behavior by management and the union (Without giving injured worker documentation so as to have his/her proof of work related injury, it will be the injured party word against company, union and state). Yet again General Motors lawyers got this case dismiss. After plaintiff case was dismissed, General Motor waited nine months later and implemented these changes that plaintiff stated in his lawsuits that needed changing. This has been the scheme by company and lawyers to defraud plaintiff of his ideals to make needed changes to improve accountability, to prevent corruption, and improve the health of the business with no compensation and acknowledgement towards plaintiff, just steal and use his ideal and keep his case out of the court of law. They knowingly and willfully committed these acts against plaintiff, again making a mockery of the United States court of law and our Constitutional rights. **This court must not abuse its discretion to allow these violations to continue and go unpunished. Invoking the power of the court of law in bringing these unlawful acts before a "Grand Jury" is a duty to uphold justice.**

PLAINTIFF IS REQUESTING A GRAND JURY INVESTIGATION AGAINST THIS PLAN AND SCHEME TO DEFRAUD INJURED WORKERS OF THEIR RIGTHS TO BENEFITS. THIS IS HOW IT WORKS:

Any business in the state of Michigan can automatic deny any claim for worker's compensation benefits by injured

party and put workers on regular sickness and health benefits instead of the correct coverage or no coverage at all (this is fraud). Delaying their right to recovery of claim by running pass the statute of limitation and then make a settlement offer to claimant. But because the statute of limitation has ran out, claimant can't go back to the first date of being off work due to job related injury, they can only go back two or three years from the date of settlement, causing claimants to lose out on full entitlement of benefits payments under worker's compensation claims. Plaintiff ideals used by General Motor's to help control corruption should be implemented on a national scale. Recommendation stated in plaintiff lawsuit (2000): All parties (company medical department, safety department, O.H.S.A. and injured worker) should have a copy of the "ON THE JOB INJURY REPORT", within 24 hours or when investigation is completed with everyone signature including the injured worker, he/she would have their documentation of this report as proof if it should be needed. This report will be only for "ON THE JOB INJURY REPORT", which would help control abuses and corruption of being denied worker's compensation. With these documents, state and companies will no longer be able to play a game with injured workers benefits and lives (Illinois is a model to follow, but plaintiff plan is better nationally). Companies inside their respected states will still have a right to deny/dispute any workers' compensation benefit that wasn't reported (recorded) as an, " ON THE JOB INJURY REPORT", just as it is today. This added procedure would help stop or better control abusive behavior (corruption) and put a stop to this scheme to reduce worker's compensation benefit at the expense of the injured worker as it is today. The main difference between Enron corruption and this case is that the people of Enron will have the physical ability to continue to work. The injured workers in this case may not be able to ever work again due to their job related injuries.

Plaintiff fight for justice is not against the court of law, but against corruption and injustice. Plaintiff and the injured workers are the innocent party here, public health and

welfare that are being abuse by these plan's and scheme, are seeking justice and relief from this court of law/judge, to support the people rights under the United States code of law against (fraud) Racketeering activity and upholding the protected guarantee of human rights laws under our constitution and universal human rights. To display inactivity against corruption, this court would be violating its professional's special duty to defend the United States code of Law (justice), and against violator's of the U.S. Constitution (Universal Declaration of Human Rights).

PATTERN OF RACKETEENING

The three mastermind of this scheme to conceal and discriminate has been working this pattern for decades against plaintiff and injured workers. Plaintiff experience started on September 2, 1992. General Motor's, G.M team of lawyers and the UAW (U.S. v. District Council of New York City and other defendants, S.D.N.Y. 1991, 778 F.Supp. 738) have violated plaintiff rights protected under the United States code of laws by committing perjury, fraudulent concealment and discrimination, and numerous of other violation that maybe a pattern nation wide (18 U.S.C. §§ 241 and242; Pattern of Racketeering Activity;

1) General Motor's and the UAW engaged in discriminatory behavior by concealing injuries to plaintiff caused by white coworker (Gary Osborne) so as to protect him from being discipline for not controlling his anger. But due to the fact that his dad was the president of local 1292, nothing was done.

2) General Motor's and the UAW engaged in discriminatory behavior in November of 1994. Plaintiff was working with white coworker (Mark Rothwell) on a robotic line when plaintiff was attack by Rothwell at which supervisor Jim Miller witness Rothwell out of control (anger) behavior but no report was made because Rothwell is the brother in-law to one of the head G.M. manager (Jeff Garmen) in plaintiff department, he was protected and no disciplinary action

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was taken, although **"O.H.S.A, statutes state, that an employer must report all point-of-operation injuries and record all violent acts directly related to employment regardless of who commits the act"**. Plaintiff was removed by management and relocated to a lower graded job at the request of Rothwell.

3) Management engaged in discriminatory acts in March of 1995, plaintiff was working with a team of coworker when the entire workers agreed (as a team) on what job we're all were going to do (conformable in our ability). As we started working supervisor John Miller was passing by so Plaintiff asked Miller if it was all right if he continued on the electrical job he was doing and Miller agreed. But when supervisor Jim Brandon caught sight of this he stopped everyone and reassigned my job. Plaintiff had the electrical knowledge but black men in this department were not appointed new production lines or robotic lines only white workers. This was a common practice to do against black skill tradesman in my department and the union whet along with this behavior (no fair representation, this was common practice).

4) Plaintiff filed a complaint with Michigan Civil Rights Department in 1995 at which the statements about incident that have happen from 1992 to 1995 were included. Plaintiff also listed stated facts that racist remarks, racial slurs writing in the men's locker room, and in all the washroom and working in a hostile environment, and denied job opportunities, yet this investigator never found any wrongdoing without checking the area's, nor interviewing any other black man in plaintiff department. This was a subverted investigation at which the investigator, in her opinion no violations were found. Despite union civil rights rep. detailed statement **"that supervisors often pick and choose who they want for a particular training/job and that race may be a factor", yes it was a main factor because they all were white.**

5) In January of 1998 plaintiff sign up for apprenticeship program at another G.M. planet in Lansing, Michigan as an electrician (my life long dream). This was plaintiff attempt to get away from a racist environment and start his life all over

again (Due to the passing of time plaintiff made a call to personal director Mrs. Maria Rodriguez about when opening would be available. In January of 1999 plaintiff call Mrs. Rodriguez in was told that management at Grand blanc stated," **plaintiff was not qualify',** plaintiff asked Mrs. Rodriguez who told her that, and she stated that she could not disclosed that information to me (**another act of concealing information and violation of Title VII," 42 U.S.C. §§2000e to 2000e-17**). Nine months later, management transferred six workers from plaintiff department to Lansing, they were," Jack Ammerman, Harold Matlock, Curtis McLosky, Duane Newton, Greg Vito, and Timothy Wheeler", with all being white male. This action with the injuries and the attack on the job, took an emotional toll on plaintiff. Plaintiff had to seek metal health care due too these intentional acts with no help from union representatives, the civil rights department (both federal and state), and no justice from the court of law. Yes, these acts against plaintiff (1) that all defendants acted intentionally or recklessly; (2) their conduct was extreme and outrageous; (3) all defendants action actually caused the plaintiff emotional distress; and (4) this distress suffered by the plaintiff was so severe that he had thoughts of killing himself due to years of events and an obstruction of justice (U.S. v. Welch, C.A.5 (Tex.) 1981, 656 F.2d 1039). Each attempt by plaintiff to get his case before a "Grand Jury", General Motors team of lawyers would manage to get it dismiss, and then make corrections as plaintiff lawsuits stated. This is how they worked it: 1) In plaintiff first lawsuit (1996) complaint was stated that racist remarks and slurs were written in locker room and washroom promoting a hostile work environment and the government should conduct a survey to determine if blacks are being treated fairly in their entry into the skill trades and if they are being educated properly, and having hands on job training in their respected trades. In to start at the Grand Blanc, MI. planet and Shreveport, LA, and if they are found to be confirmed then broaden these studies to include, "all North America Operation". Once plaintiff case was dismissed, a year later (1997) they (management) order all men's locker and washroom to be painted, two years later

in 1999 General Motors gave a survey of all its North America Operations. Plaintiff enter another lawsuit in the year of 2000, base on new found evidence and stated that corruption due to injured worker not receiving any documentation of job related injuries was causing a problems for workers. UAW stated that they don't get involved on workers compensation claims and the company denies the claim. This abuse brought plaintiff back into the court of law with other violation including violation of, "Due Process". Plaintiff stated a plan in his lawsuit that would help control and maybe stop this abusive behavior (corruption). Again G.M. team of lawyers got plaintiff case dismissed. But on March 21, 2001 General Motors implemented another one of the plaintiff ideal to bring about accountability. This has been a pattern for the last eight years, keeping plaintiff out of the court of law and use his complaint and ideals to make improvements for company. These events by General Motors, the Law firm for G.M and the UAW have proved they had a pattern of RICO activity that was against the plaintiff for over eight years and has been made clear by their action. (Sutherland v. O'Malley, C.A. 7 (Ill) 1989, 882 F.2d 1196). So plaintiff ask this court of law/judge, if plaintiff and workers wasn't violated, then why has General Motors use all of plaintiff ideals from his lawsuits after complaints were dismissed, and why the court of law/judge would allow injured workers (the public welfare) to be abuse by corruption, and why is this court of law letting these corrupt violators continue breaking the United States code of Laws and the Constitution that are to protect us all. **Failure not to allow this case to go before a Grand Jury/public jury, judge (Pepe) behavior would be a neglect of his legal and statutory duty, malfeasance, misfeasance, nonfeasance, corruption, and defrauding the people of their constitutional rights to punish violators of the United States code of law, therefore committing the act of "TREASON" against the constitution (Articles III section 3, IV section 2, VI).**

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RELIEF SOUGH

Plaintiff is seeking acknowledgement from judge that due process were violated and to go before the **ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS** to receive an apology for the oversight for the last eight years by the court of law and the need to consider improvements. Plaintiff is seeking reason, solution and an apology from all defendants as to why no action (accountability) was taking on their part. Plaintiff is seeking acknowledgement from judge and all defendants that the civil rights procedures need to be improved (updated), due to the very high rate of continued abuses and violations of these constitutional protected right. Plaintiff is seeking a trial by Grand Jury/public jury in behalf of the public interest/and the plaintiff and to make recommendation to the state of Michigan to make corrections in its workmen's compensation. The Grand jury/public jury should decide the cost to government and state officials for their part of inactivity toward corruption (doing nothing to bring about justice). Plaintiff is demanding injunctive relief (**G.M $3,000,000, Law Firm $1,000,000, UAW $500,000**), and compensatory (**G.M. $10,000,000, Law Firm $8,000,000, UAW $1,000,000**) and punitive damages (**G.M. $700,000,000, Law Firm $400,000,000, UAW $5,000,000**); for the cost is great for unlawful acts due to what these conspirators intentionally done to plaintiff in the twenty-five years of his service to the company. Plaintiff endured human rights abuses, thievery of plaintiff ideals, physical and emotional harm to plaintiff and his family lives, violating plaintiff hopes and dreams as a skill tradesman in his pursue of the American dream (towards happiness). Plaintiff has every right to make these demands upon intentional acts of violence and violations and the truth has justified this case. Petitioner has no control over corrupt officials and how the law is applied, but he does have the right to go before a jury and speak his case to the public inside the courtroom.

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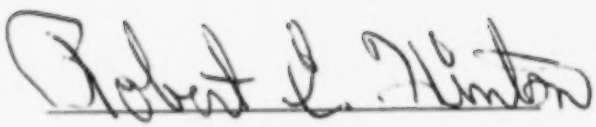

Robert E. Hinton

June 13, 2003

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISON

Robert Hinton,

Plaintiff

Case No. 02-73966

v.

Hon. Nancy G. Edmunds

United States of America,

Defendant,

_____/

ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter has come before the Court on the Magistrate Judge's Report and Recommendation. Being fully advised in the premises and having reviewed the record and the pleadings, including the report and Recommendation and any objections thereto, the Court hereby ACCEPTS AND ADOPTS the Magistrate Judge's Report and Recommendation. It is further ordered that Plaintiff's claims against UAW are dismissed, and the case is hereby DISMISSED. SO ORDERED.

Nancy G. Edmunds
U.S. District Judge

Dated: 12, Aug. 2003

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Robert Hinton,

Plaintiff, Case No. 02-73966

v. Hon. Nancy G. Edmunds

United States of America,

Defendant.
_____/

JUDGMENT

The Court having reviewed and fully considered the pleadings filed by the parties, the Magistrate's Report and Recommendation, and any objections thereto in accordance with 28 U.S.C. § 636 (b)(1), and the Court further having made a de novo determination of those portions of the Report and Recommendation to which objections may have been made; and for the reasons set forth in an Order dated: 12 AUG. 2003 and filed herein;

The Report and Recommendation of the Magistrate is hereby accepted and adopted as the findings and conclusions of the court. IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff's claims against UAW are dismissed, and the case is hereby DISMISSED. SO ORDERED.

Nancy G. Edmunds
U.S. District Judge

Dated: 12, AUG. 2003

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September 12, 2003

Robert E. Hinton
4357 Sunnymead Ave.
Burton, MI. 48519
810-742-7264

Court of Appeals
No: 03-2007
Subject: **Updated Evidence For Justice**

Plaintiff request that these new documentary be added to this case so as to establish as legal proof (**evident**) that injuries were work related (**happen on September 1, 1992/OSHA case no: 2782**) and that fraudulent **concealment** has been in continuance and effect to this present day. Plaintiff request that this court of appeals consider and answer these three questions? Why plaintiff complaint of violations including, "due process, civil rights, and injuries suffered", were deny for seven years? Consider it took eleven years for General Motors and the Michigan Workers Compensation Commission to admit (acknowledge) the injuries suffer on September 1, 1992 were work related at which they (General Motors and the state of Michigan) have been denying in the court of law until August 8, 2003 (**it should have never taken this great length of time to admit a workers, "on the job injury"**), but due to corruption and the violation of laws under the United States code of law and the laws within our Constitution (**race base violations**), plaintiff protected rights were violated and overlooked, and lastly the court should consider the form of deception (intent) used to deceive these facts (**committing perjury**) and obstructing the establishment of justice in this case due to falsification of documents and evident being **concealed** from the court of law and the plaintiff (**obstruction of justice**). These documentary not only establish the injuries suffered by

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plaintiff were factual and true from the very beginning, but it's strong evident that this is the first time plaintiff injuries were acknowledged and order to receive physical therapy under workers compensation. There has been **fraudulent concealment involved in this case (pattern of racketeering and other listed violations (18 U.S.C. § 1035 (a)(1)(2), 18 U.S.C. § 1623 (a)(c)(1)(2), 18 U.S.C. § 242, 18 U.S.C. § 2071 (a)(b), 42 U.S.C. § 2000E-2(a)(1)).** The statute of limitation should have been tolled due to the actions or lack there of, by these defendants's deceiving the court of law as it accrued each time plaintiff brought new violation (**continued violation**) before the court. **The law clearly states," the statute of limitations should continue to be tolled so long as the plaintiff's injury or the defendant's pattern of racketeering was fraudulently concealed, either as an inherent by-product of the initial scheme to defraud or as a result of the defendant's further actions to conceal.** Their scheme is to defraud injured workers of their legal right to receive workers compensation insurance for "**on the job related injuries**", by (**changing medical records or conceal part of medical records**) forcing workers to use their regular insurance plan (General Motors Life and Disability Benefits Program) until they (companies and state of Michigan) decide to acknowledge the claim (**this is a form of insurance fraud**) at which it should not take over two months, this is not an establish law. But a recommendation by this court of appeals can be issued to establish its opinion on this matter. This lack of time limit to acknowledge/decide workers injuries **has lead companies and the state of Michigan to abuse their power over the health care of it's citizens and causing case's to run past the statue of limitation intentionally before a settlement can be reach and limiting the injured party their rightful claim.** No one has shown concern over stopping this abuse of power and public corruption. The Court of Appeals recommendation is of great value to take corrective action

and helping to stop corruption (**fraud**) and abuse of power by all defendants, for each of them had become an instrument for the suppression of this abuse. "One of the FBI's top priorities is to combat public corruption at all levels, including the judiciary," said Edwin L. Worthington, special agent. **"All citizens are entitled to fair and impartial legal proceedings without undue influence." Justice has never been served in this case, for the many years of afflictions, retaliation and abusive on the job and in job training. Nothing has ever been address towards these injustice (corruption) and injuries suffered (fraudulent concealment). This is what plaintiff is seeking, "a fair and impartial hearing before a Grand Jury", added protocol procedures for civil right investigation (needed update) and monetary punishment against all defendants. Plaintiff has always maintained this request, yet the lower court stated, "Plaintiff fail to state a claim". Which is untrue, plaintiff records shows otherwise.**

Robert E. Hinton

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No. 03-2007

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Robert E. Hinton

Plaintiff-Appellant

v. ORDER

UNITED STATES OF AMERICA; ADMISNISTRATIVE OFFICE OF THE UNITED STATES COURTS; MICHIGAN DEPARTMENT OF CIVIL RIGHTS; MICHIGAN DEPARTMENT OF LABOR; UNITED AUTOMOBILE WORKERS OF AMERICA; HARDY, LEWIS AND PAGE; GENERAL MOTORS CORPORATION; UNITED STATES ATTORNEY GENERAL,

Dedendants-Appellees.

Before: NELSON, GIBBONS, and SUTTON, Circuit Judges

This matter is before the court upon initial consideration of appellate jurisdiction. A review of the documents before the court indicates that the magistrate judge entered a report and recommendation on June 30, 2003. The appellant appealed on July 18, 2003 from the report and recommendation. This court lacks jurisdiction over this appeal. No final or appealable order was entered at the time the notice of appeal was filed. *See Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 373 (1981); Catlin v. United States, 324 U.S. 229, 233 (1945).

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No. 03-2007

An order of a magistrate judge is not appealable unless the magistrate judge is given plenary jurisdiction pursuant to 28 U.S.C. § 636 (c) (1). *Tripati v.Rison,* 847 F.2d 548-49 (9th Cir. 1988) (per curiam); *McGraw v.Connelly (in re Bell & Beckwith),* 838 F.2d 844, 848 n.5 (6th Cir. 1988); *Ambrose v. Welch,* 729 F.2d 1085 (6th Cir. 1984) (per curiam). The magistrate judge was not given plenary jurisdiction in this case.

Accordingly, it is ordered that the appeal is dismissed.

ERTERED BY ORDER OF THE COURT

Dated: 9-18-03

Leonard Green
Clerk

K

No. 03-2007

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Robert E. Hinton,

Plaintiff-Appellant

v. ORDER

UNITED STATES OF AMERICA; ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS; MICHIGAN DEPARTMENT OF CIVIL RIGHTS; MICHIGAN DEPARTMENT OF LABOR; UNITED AUTOMOBILE WORKERS OF AMERICA; HARDY, LEWIS AND PAGE; GENERAL MOTORS CORPORATION; UNITED STATES ATTORNEY GENERAL,

Defendants-Appellees.

Before: NELSON, GIBBONS, and SUTTON, Circuit Judges.

The Plaintiff has filed a petition for rehearing. The case was dismissed by this court on September 18, 2003. Upon careful consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it issued its order. Fed. R. App. P. 40(a).

The petition for rehearing is denied.

ENTERED BY ORDER OF THE COURT

Dated: 11-21-03

Leonard Green

03-2007 HINTON v. USA ET AL.

FLOW CHART OF ALL COURTS EVENTS (BY DATES)

8/14/03	Civil Case Docketed. Notice filed by Appellant Robert E. Hinton. (jts)
8/21/03	Case referred to Staff Attorney. (03-2007) (mmm)
8/25/03	Appearance filed by Attorney Sheila H. Gaskell for Appellee US Atty Gen, Appelle Adimin. Office USA, Appellee USA (03-2007) (jts)
8/29/03	Appearance filed by Attorney Angelita Espino for Appellee MI Dept Civil Rights (03-2007) (jts)
9/05/03	Appearance filed by Attorney Thomas C. Carey for Appellee UAW of Amer (03-2007) (jts)
9/15/03	Appearance filed by Attorney Attorney David M. Davis for Appellee GMC, Appellee Hardy, Lewis and Page (03-2007) (ert)
9/17/03	Notification filed by Robert E. Hinton for Appellant Robert E. Hinton regarding ltr with "additional evident withheld from court". Certificate of service date 9/12/03 (03-2007) (ert)
9/18/03	Order filed to dismiss case for lack of jurisdiction; no final order. (03-2007). David A. Nelson, Julia S. Gibbons, Jeffrey S. Sutton, Circuit Judges. (blc)
9/29/03	Petition for rehearing filed by Robert E. Hinton for Appellant Robert E. Hinton. Certificate of service date 9/27/03. (03-2007) (jts)
11/21/03	Order filed denying petition for rehearing filed by Robert E. Hinton (03-2007). David A. Nelson, Circuit Judge, Julia S. Gibbons, Circuit Judge, Jeffrey S. Sutton, Circuit Judge. (jts)

M

AFFIDAVIT OF JOHN MILLER

STATE OF MICHIGAN)
)SS
COUNTY OF GENESEE)

JOHN MILLER, being first duly sworn, deposes and says as follows:

1. I am a General Supervisor at General Motors Corporation's Metal Fabrication plant located in Grand Blanc, Michigan. I have reviewed Robert Hinton's complaint and deposition testimony and I am familiar with the allegations made against the Corporation.

2. During the relevant time period to his lawsuit, I was Robert Hinton's supervisor in the Welding Maintenance Department. Under my supervision, Mr. Hinton has been assigned to assembly lines, which allow him to work with the latest technology introduced in the plant. Specifically, Mr. Hinton has been exposed to robotics and computer aided manufacturing technology. I have also given him assignments, which allow him the opportunity to improve his electrical trouble shooting skills.

3. In addition, at Robert Hinton's request, I assigned him to work on the MP-6 Cross Bar Welder, which allowed him to develop electrical construction skills. These skills are not normally required by WEMR's assigned to the Welding Maintenance Department. Such work is typically performed by the employees in the Tooling Center.

4. I have never considered Robert Hinton's race when making job assignments or concerning any other aspect of his employment.

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5. Job assignments for other WEMR's in the department are also made without regard to their race. African American WEMR's regularly receive job assignments, which expose them to the latest technology introduced to the plant.

FURTHER AFFIANT SAYETH NOT.

_____

JOHN MILLER

Subscribed and sworn to before
Me this 6th day of May, 1996

_____

Rhonda S. Johnson
Rhonda S. Johnson, Notary Public
Genesee County, Michigan
My Commission Expires: 5-21-97

M

AFFIDAVIT OF JAMES BRANDON

STATE OF MICHIGAN)
)SS
COUNTY OF GENESEE)

JAMES BRANDON, being first duly sworn, deposes and says as follows:

1. I am a Supervisor in the Welding Maintenance Department at General Motors Corporation's Metal Fabrication Division located in Grand Blanc, Michigan. I have reviewed and am familiar with the allegations contained in Robert Hinton's Complaint and deposition testimony.
2. As a supervisor in the plant's Welding Maintenance Department, I supervise and am familiar with the job, duties of employees classified as Journeyman- Welding Equipment Maintenance and Repair, also known as WEMR. I am familiar with the job, responsibilities of Robert Hinton.
3. WEMR's like Robert Hinton, are responsible for the maintenance and repair of the resistance welding equipment utilized on the metal fabrication assembly line. WEMR's must have a working knowledge of the hydraulic, electrical and mechanical systems associated with welding machines utilized in the plant. Newer model welding machines require WEMR's to be familiar with lasers, robotics and computer assisted manufacturing.
4. The primary responsibility of WEMR's is to keep the welding machines clean and the surrounding areas orderly. WEMR's are also responsible for determining the type and quantity of spare parts needed to service the assembly line and for keeping the parts readily accessible.
5. As part of their job responsibility concerning routine maintenance, WEMR's inspect electrical lines, cables, welding guns, transformers and gauges. Repair work

undertaken by WEMR's typically involves the replacement of welding guns, leaky water hoses and broken hydraulic lines. WEMR's are also responsible for trouble shooting problems occurring in electrical control panels for welding machines.

6. WEMR's who are interested in learning about the newest technology introduced in the plant are assigned to the assembly line utilizing the latest technology.

7. New tool construction is typically done in the plant's Tooling Center. One of the job duties routinely undertaken by Tooling Center employees is electrical construction work, which entails completing the wiring for new tools. Typically, electrical construction work is not formed by WEMR's in the Welding Maintenance Department.

8. In October of 1993, it was determined that the Tooling Center was behind schedule constructing tools, including the MP-6 Cross Bar Welder, due to a lack of manpower. Rather that outsourcing the work, the union and management agreed to allow the Welding Maintenance Department to build tools and perform electrical construction work on the MP-6. On Saturday, October 22, 1993, I was responsible for overseeing work being done on the MP-6. I had selected Harold Brock to perform the electrical construction work. When I discovered that Robert Hinton also had been assigned the job I replaced him with Harold Brock because Mr. Brock possesses superior electrical skills to that of Robert Hinton. In my opinion, it would require one or two weeks of training for Robert Hinton to be qualified to perform electrical construction work on the MP-6. At the time, the time constraints for finishing the MP-6 project did not allow for Robert Hinton to be trained on the job.

9. On January 2, 1993, I gave Robert Hinton a disciplinary layoff for the balance of the shift plus one additional day for violating Shop Rule No.9. Specifically, I discovered Mr. Hinton Loitering in the basement of the pressroom during his work hours. At the time, Mr. Hinton was well aware

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that the area was off limits to all employees except those assigned to complete a work project in the area. I determined that time off from work was an appropriate discipline because on a pervious occasion when I had found Mr. Hinton in the basement and I explained to him that it was off limits. I issued Mr. Hinton a written reprimand on that first occasion.

10. On February 25, 1995, I issued Robert Hinton a written warning when I found him playing chess during his work shift. At the time, I also disciplined Mr. Hinton's chess partner, James Davidson, for engaging in the same activity.

11. My actions toward Robert Hinton have *never* been motivated by his race.

FURTHER AFFIANT SAYETH NOT.

_____

JAMES BRANDON

Subscribed and sworn to before
Me this 7th day if May, 1996

_____

Rhonda S. Johnson
Rhonda S. Johnson, Notary Public
Genesee County, Michigan
My Commission Expires: 5-21-97

N

MICHIGAN DEPARTMENT OF CIVIL RIGHTS

REPORT AND RECOMMENDATIONS

Complaint No. –134755-EM16 January 20, 1995

Claimant Robert Hinton

Respondent General Motors Corp./Grand Blanc

Field Representative Rita Short

PRELIMINARY INVESTIGATION

I. INTRODUCTION:

The preliminary investigation was conducted at a resolution conference in October, 1994.

Representing the respondent was: Linda Ireland, Administrator/ Martina Hazard, and Salaried Personnel

Representing the Department of Civil Rights was: Rita Short

The Department's rules and procedures were explained/ waived.

The respondent is a producer of automobiles and parts.

The respondent's employees are represented by a labor organization.

Witnesses: Roosevelt Adams- received no response.

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II. CLAIMANT'S ALLEGATION:

The claimant, a Black man, alleged

1.) He was denied training because of his race.

III. RESPONDENT'S ANSWER:

The respondent denied the claimant's allegation.

IV. STATEMENTS OF FACT:

1A. The Claimant's Position:

The claimant began his employment on September 12, 1977, and currently works as a welder equipment maintenance repair person (WEMR). On October 22, 1993, he stated he was removed from an electrical job and replaced by a white employee. He stated, he and other black employees have been denied training and given less desirable assignments. He further stated he had contacted Jimmy Pugh the Civil Rights Committee Man regarding his situation and got no results. He added that he and a white employee had a confrontation and he believed that affected his chances for training.

1B. The Respondent's Position:

Linda Ireland stated the claimant has been assigned to the M line and worked with Robotics, since October, 1993 transferred to the 94 door lines, both being highly technical. She stated on October 22, 1993, the claimant's Superintendent said the tool construction was behind due to a lack of manpower and a union management agreement occurred to allow Welder maintenance employees to build tools. The claimant asked to be assigned but another supervisor who was responsible for running the tool building had already assigned the job. Furthermore, the White man assigned has the necessary training and the

claimant did not. **Martina Hazard added that there was no record of an employee confrontation. She also mentioned that the claimant's record verified that he had a rather high incidence of sick leave.** His salary rate rose from $18.88 to 21.04 on November 15, 1993.

1C. Evidence:

1.) A letter from Linda Ireland details the incident on October 22, 1993, where the claimant was never actually assigned to a job, but through a misunderstanding believed he would be. (Exhibit 1)

2.) Jimmy Pugh the claimant's committeeman stated the claimant does not make him aware of his problems when they occur. He did discuss the above with Martina Hazard and agreed it was a misunderstanding. **He did add that supervisors often pick and choose whom they want for a particular training/job and that race may be a factor.** He stated he again needs to know exactly when such a thing occurs in order to pursue it.

V. SUMMARY/CONCLUSIONS/RECOMMENDATION:

The claimant, a Black man alleged he was denied training due to his race.

The respondent denied the claimant's allegation.

The investigation revealed that on October 22, 1993, the claimant believed he was assigned to a tool-building job and was replaced by a white employee. It further revealed that the claimant had requested this temporary job, not knowing the supervisor in charge of it, had already assigned it to someone else. The committeeman discussed this with the Civil Rights Representative for Personnel, and concurred that it was a misunderstanding. He added that the claimant and other black employee don't always make

him aware of decisions they believe to be racially discriminatory. He investigated this incident when he became aware of it. The claimant's job is highly technical and his salary rate indicates this. The investigation did not disclose evidence of unlawful discrimination. It is recommended this complaint be dismissed for insufficient evidence.

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SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

April 18, 2001

WILLIAM K. SUTER
CLERK OF THE COURT

Ronnie Bradfield
#219625
Site-3 (WTSP)
P.O. Box 1100
Henning, TN 38041-1100

AREA CODE 202
479-3011

RE: Ronnie Bradfield v. James A. Bowlen, Warden
No. 99-9165

Dear Mr. Bradfield:

The papers pertaining to the above-entitled case that were received April 9, 2001 are herewith returned. This case is closed, and no further consideration by this Court is possible.

Sincerely,
William K. Suter, Clerk
By:

_____

Loretta S. Ruffin
(202) 479-3039

P

DOCTOR'S LISTING

These are the Doctor's that has help petitioner with job related illness and injuries suffered at General Motor's (Grand Blanc). The illness is called Sarcoidosis. Petitioner inhaled toxic fumes from second hand smoke (GALVANIZED STEEL) and from chemicals: TOLUFONE, ACETONERS ARSENIC.

Doctor's listed:
Company Doctor, Reddy

Dr. Pankaj N. Vakharia	248-328-4000
Dr. Dorothy M. Mulkey	810-733-5351
Dr. James E. Dowd	810-225-7553
Dr. Wilbur J. Boike	810-762-4520
Dr. Imad Tahboub	810-733-5390
Dr. Jeffrey C. Norojan	810-233-5950
Dr. James C. Culver	810-603-2887
Dr. C. Douglas	810-606-7100
Dr. Khandelwal	810-720-9000

Dr. T. Marks at University of Michigan Hospital